



Planning & Transportation Commission Action Agenda: November 18, 2020

Virtual Meeting
6:00 PM

Call to Order / Roll Call

Approximately 6:05 pm

Chair Templeton: Mr. Nguyen, please conduct the roll.

Mr. Vinhloc Nguyen, Admin Associate III: Chair Templeton?

Chair Templeton: Present.

Mr. Nguyen: Vice-Chair Roohparvar?

Vice-Chair Roohparvar: Present.

Mr. Nguyen: Commissioner Alcheck?

Commissioner Alcheck: Present.

Mr. Nguyen: Commissioner Hechtman?

Commissioner Hechtman: Present.

Mr. Nguyen: Commissioner Lauing?

Commissioner Lauing: Present.

Mr. Nguyen: Commissioner Riggs is absent tonight. Commissioner Summa?

Commissioner Summa: Here.

Mr. Nguyen: We have a quorum. Thank you.

Chair Templeton: Great, thank you so much.

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1 **Oral Communications**

2 The public may speak to any item not on the agenda. Three (3) minutes per speaker.^{1,2}

3 Chair Templeton: We'll now move onto Oral Communications. This section is for the public to
4 speak on items, not on the Agenda. Mr. Nguyen, are there any public speakers for Oral
5 Communications?
6

7 Mr. Vinhloc Nguyen: It looks like we just have one raised hand. Can we please get the speaker
8 timer? Thank you so much. Ok, our speaker is Rebecca.
9

10 Ms. Rebecca Eisenberg: Hey, there this is Rebecca Eisenberg. Thank you so much for letting me
11 speak. I'm going to use the time as I normally do which is to speak about process because you
12 know I love process. I strongly believe that without a good, clear transparent, and accountable
13 process it's impossible for anybody, any Commission, any executive team, etc. to reach a good
14 outcome or make good decisions.
15

16 In this case, I want to point out again, a missing piece to the way that all the Commission
17 meetings and the City Council meetings too are run here in Palo Alto. This style is losing
18 acceptance across the country and especially in California. The style where an applicant, often a
19 wealthy applicant, speaks and get 10-minutes plus another 3 or so towards the end; and then
20 the Board or the Commission then gets to ask questions; and then the community talks which
21 often includes people speaking on behalf of the applicant which is actually is not supposed to
22 happen, and then the applicant talks again. And the missing piece here is somebody to speak on
23 behalf of the community for an equal amount of time. That person would talk about why we
24 have the laws that are in place. Why there are laws here in Palo Alto to, for example, protect
25 ancient trees. How that Environmental Impact Report may say on paper that we're going to
26 replace trees but that the truth is that we all know we cannot replace a 300-year old tree. How
27 Environmental Impact Reports might say, for example, traffic might be mitigated but we all
28 know that traffic isn't really being mitigated if the applicant hasn't provided shuttles; or isn't
29 requiring people who work at that location, or otherwise go to that location not to bring their
30 cars there. So, there are a lot of things that are missing from these meetings that I think might
31 be making it harder for you all to make some decisions.
32

33 Tonight, I just want to point out very quickly what can happen when those points are missing. I
34 grew up in Whitefish Bay, Wisconsin which is demographically very close to Palo Alto but just
35 divides the wealth by maybe a factor of 20. In a similar meeting, a developer got permission to
36 build a big chain store in the middle of our town. During construction a child my age, while on a
37 bike, was hit by a construction truck and died while about 20 kids were watching. That's the
38 kind of thing that failure to have a really good meeting can sometimes not avoid. So, I'm
39 hoping, I trust you all despite the flawed way of holding meetings, to really do your best to hear
40 all points of view and consider risks. Thank you so much for your time tonight.

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1
2 Mr. Nguyen: Thank you Rebecca for joining us tonight. There are no more raised hands so that
3 concludes public comments for Oral Communication.

4
5 Chair Templeton: Thank you very much.

7 **Agenda Changes, Additions and Deletions**

8 The Chair or Commission majority may modify the agenda order to improve meeting management.

9 Chair Templeton: Ok, do we have any Changes, Additions, Deletions on the Agenda?

10
11 Ms. Rachael Tanner, Assistant Director: No Chair Templeton, we do not have any changes or
12 deletions, or additions.

13
14 Chair Templeton: Great.

15 **City Official Reports**

16 1. Directors Report, Meeting Schedule and Assignments

17 Chair Templeton: Let's move onto City Official Reports.

18
19 Ms. Rachael Tanner, Assistant Director: Thank you. Good evening Chair, good evening
20 Commissioners. It's good to be with you again this evening. I just have a couple of updates for
21 you. First, not the news that we were all hoping for but I'm just the news that most members of
22 the Commission and members of the public are aware of which is that the Santa Clara County
23 has been reduced back to the purple tier. And if you'll remember there is a four-tier color-
24 coded system in the State of California that rates all counties based on their positivity rate, their
25 health equity rate, and something else. I always forget the third. Their case... the overall cases I
26 believe per population. And based on those numbers' counties are sorted into those colors and
27 those tiers and different activities are allowed to continue or not allowed... not permitted to
28 continue. And so, we're back in the purple tier which is the tier where there's widespread
29 transmission of the virus and it's the... I guess I'll just say it. It's the worse tier where you have
30 the least... the most restrictions and fewer activities can take place. So, certainly not what we
31 were hoping for. We had advanced all the way to orange, so we were in purple and then red
32 and then orange. And so, we had some good signs but we are now in purple and what that
33 means is you can still, for example, retailers are still open. So, we still encourage folks to do
34 their holiday shopping locally online or in person but reduced to 25 percent of capacity.
35 Restaurants are available for take out and for outdoor dining where they have outdoor seating
36 available, but indoor dining is not allowed. Outdoor fitness is allowed but no gyms indoors.
37 Barbershops and hair salons, you can still get your hair cut but there are restrictions on capacity
38 for personal services. Similar to retailers, to try to ensure that there aren't too many people

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1 indoors at one time and there are other restrictions. So, we just do encourage folks to... despite
2 the restriction on some activities, continue to enjoy the outdoors as we can, to socially
3 distance, to wear your face coverings at all times when you are outside of your home and of
4 course, wash your hands. So, we hope that we can get back on a good direction going forward
5 but that is where the county is as of yesterday at noon. So, you know, we're looking forward to
6 hopefully moving back up into some of these other tiers in the future.

7
8 We also are... we just had a few weeks ago at Council. I guess maybe it was last Monday. Time is
9 going so quickly. Council did extend our Uplift Local Streets. So, you may recall that portions of
10 University Avenue and California Avenue are closed to vehicle traffic to allow more space for
11 outdoor dining and outdoor retail. And those programs will be continuing through May of 2021.
12 We are still keeping an eye on everything to make sure the space is utilized and being taken
13 advantage of, and certainly have some capacity to do some other configurations during those
14 months. Such as if it's really rainy, or other things need to take place, so we have some
15 flexibility, but the programs are working very well. And certainly, with the roll back to the
16 Purple Tier, very timely for our restaurants to be able to use the outdoor seating. So, encourage
17 folks to visit one of those locations and visit our Uplift Local Streets as well as our restaurants
18 and businesses that may be having outdoor dining at other locations which has been a very
19 successful program for many of them.

20
21 I'm also... just one more COVID update, tomorrow or not tomorrow, this Friday the 20th we
22 have COVID testing at the Palo Alto Art Center. So, if anyone needs to get a COVID test that is a
23 great place to go. You can go to the City's website and register for an appointment and again,
24 it's open to folks who live in Palo Alto, who may work in Palo Alto, if you have a friend or family
25 member you're concerned about it's a great opportunity. If you do have insurance, they will ask
26 for insurance information, but if you don't have any insurance coverage you can still come in
27 and get tested. And that is a partnership with Santa Clara County that we're operating and
28 happy to report that our testing site's in Palo Alto. There are many throughout the county and
29 other Cities. Ours has one of the highest and consistent usage rates of all the sites that are
30 distributed. And so far, we've tested over 6,000 people through those testing and... that's about
31 every... twice a month, and I believe that started in I want to say August. So, we have just
32 consistently really had a lot of usage of that testing site and that's a really great thing to see.

33
34 Some good news for our Planning Department. You have met Clare Campbell who is our Long-
35 Range Planning Manager and who will be presenting tonight. We've also just as of last week,
36 our new Senior Housing Planner Tim Wong started. Tim was with the City before and then had
37 a time when he was working with the City of Mountain View and he wanted to come back to
38 Palo Alto. So, he loved us so much he could not just get enough and so we are so glad to have
39 him back as a Housing Planner. As you know, we have quite the Work Program. We're so
40 excited to have his leadership and we're sure he'll be before you in not too long of time.

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1
2 And then lastly, last two things, we... last two, we have a Long-Range Planning Principal Planner
3 that's a position that I believe closed yesterday or today and so we hope to bring on one more
4 member of our Long-Range Planning Team and that group will be complete. So, we are very
5 excited about that and thank Council for adding back funds to have both the Senior Housing
6 Planner and the Long-Range Principal Planner.

7
8 And so, coming up in the future meetings here, we are shuffling things around. We have coming
9 up in December 340 Portage, a Text Amendment request at the Frye's building; or the former
10 Frye's building I should say. And also the North Ventura Coordinated Area Plan, we'll be
11 bringing forward three of the proposals and the alternatives that have been worked on by the
12 Working Group, and we'll be looking for PTC to consider them and make a recommendation to
13 City Council in December. That will be our last meeting for 2020 and we'll get back together on
14 the 13th of January in 2021. We'll be working with the staff and especially our Long-Range
15 Planning Team and current planners to look at what our schedule is going to look like for the
16 first quarter of next year because we do have a lot of items that we will be bringing. And so,
17 hopefully, we can give you a preview in December of what you can anticipate in January and
18 February, and March but we certainly do not have a storage of things to bring before you.

19
20 And the only other thing I will add is with the Uplift Local Streets that we have we are also
21 continuing to offer free parking in the garages and lots that are owned by the City to make it
22 easy for folks to come to Palo Alto, to come to those locations. Especially as it's getting darker
23 earlier and the weather is getting worse. They can park for free, they won't get a ticket. We are
24 doing parking enforcement in our residential preferential parking areas. And so right now there
25 are warnings being issued if someone is parked there that is not supposed to but it will
26 eventually lead to tickets and enforcement; but right now, in the garage and lots, folks can
27 park. And so, they don't need to park in the neighborhoods nearby to the Uplift Local Streets in
28 order to enjoy the businesses and the retail areas.

29
30 So, that's my report for this evening. I'm happy to... actually I have one more thing. Always
31 risky. One thing that we wanted to try to do and apologies to Commissioner Riggs who is not
32 here is to make sure that we always report at these meetings what's coming up on the Council.
33 That's an item that came to the PTC so the liaison has a little heads up and then Vinh also will
34 remind when he sends out the Agenda that there's an item coming up on the following Monday
35 that a liaison may need to be present for. At this time there are no action items coming to the
36 City Council in the next three meetings. City Council has November 30th, December 7th, and
37 December 14th. Just three meetings before the end of the year. There are no action items
38 coming that have come to PTC. We do have on the 14th a couple of transportation items that
39 will be coming to the City Council but they're not items that have come here and I'll make sure
40 that we have more transportation folks here to give you an update on what those are and then

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1 we will be bringing to the Council consideration for some changes. They directed Staff to look at
2 very minor tweaks to the definition of retail in order to try to see if we can fill some of the
3 vacancies that are occurring and sadly increasing in Palo Alto. Especially in our core retail areas,
4 as well as potentially some change to the threshold for Conditional Use Permits, so we're taking
5 a look at that. We'll be bringing that on December 14th. We'll see if they want to send it to PTC
6 if they want to adopt an amendment... an ordinance at that evening and what will happen if
7 that does get adopted as an ordinance on that evening. It would come for the second reading in
8 January when we do have the new City Council seated so we are taking a look at that. It's things
9 like making sure that an ice cream parlor doesn't need the same amount of parking as a
10 restaurant because it's clearly a much smaller use. Although they can have their lines for sure, a
11 different type of operations than a sit-down restaurant. And so hopefully we can see some
12 more of those quick take-out foods, which is certainly a trend, be able to open and operate
13 successfully during the pandemic.

14
15 That's the end of my report and I'm happy to answer any questions that the Commissioners
16 may have.

17
18 Chair Templeton: Thank you so much Assistant Director Tanner. Did you... apologizes if I missed
19 it, did you update on what happened at City Council this week?

20
21 Ms. Tanner: I did not. That's a great point, thank you, Chair Templeton. This week we had 788
22 San Antonio which you will recall is a project that came before you. Both 102 housing units in a
23 development there at the corner of I believe Leghorn and San Antonio and then also a larger
24 area to increase the FAR and apply the Housing Incentive Program to try to generate more
25 housing development in that area. And that was supported by the Council, 4-3 on Monday and
26 we also had an update for about the RHNA; the Regional Housing Needs Allocation. Director
27 Lait gave that update and Council did direct us to make a few changes to and send a letter... a
28 comment letter to ABAG regarding RHNA.

29
30 Just an update on RHNA, they are finalizing the methodology this month in what we anticipate
31 for ABAG. Again, the Association of Bay Area Governments and the Metropolitan
32 Transportation Commission to finalize that methodology this month. We also anticipate that
33 either December or early January the final blueprint, the Bay Area 2050, the long-range plan
34 will also be finalized. And so, we're keeping a close eye on that and continuing to make the case
35 for Palo Alto perspective regarding the RHNA and what Council's directed us to say to ABAG
36 regarding the numbers being perhaps unsustainable, unrealistic for the City to achieve during the
37 next RHNA CYCLE.

38
39 Chair Templeton: Alright, thank you for that update. Sorry, I blinked out and had to reconnect
40 but ok so let's move onto the next Agenda Item.

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1 **Study Session**

2 Public Comment is Permitted. Five (5) minutes per speaker.1,3

3 **Action Items**

4 Public Comment is Permitted. Applicants/Appellant Teams: Fifteen (15) minutes, plus three (3) minutes rebuttal.
5 All others: Five (5) minutes per speaker.1,3

6
7 2. PUBLIC HEARING/ QUASI-JUDICIAL. 922 College Avenue [20PLN-00104]: Request for
8 Review of a Preliminary Parcel Map with Exceptions to Adjust Lot Lines for Two
9 Substandard Parcels to Facilitate the Redevelopment and Sale of Two Homes.
10 Environmental Assessment: Exempt. Zoning District: R-1 (Single Family Residential).
11 For More Information Contact the Project Planner Emily Foley at
12 Emily.Foley@cityofpaloalto.org

13 Chair Templeton: The next Agenda Item is an Action Item, Number Two, which is a public
14 hearing, quasi-judicial about 922 College Avenue. Should we start with asking about any
15 recusals are necessary for this item? Commissioner Summa.

16
17 Commissioner Summa: I am going to recuse myself from this item because I live 300-feet from
18 the site. So, I'll just sign off my audio and video and maybe somebody who has my number can
19 just text me when you're done.

20
21 Chair Templeton: Ok.

22
23 Commissioner Summa: Thank you.

24
25 Chair Templeton: Thank you, Commissioner Summa. Anyone else? Alright, then Assistant
26 Director Tanner it's over to you.

27
28 Ms. Rachael Tanner, Assistant Director: Great, thank you. This evening we have Emily Foley who
29 is one of our Associate Planners who will be doing the presentation this evening and I believe
30 we also have David Kirk who is with the applicant who will also be making a presentation or at
31 least an oral presentation. So, Emily if you want to share your screen and bring your
32 presentation, the floor is yours.

33
34 Ms. Emily Foley, Planner: Thank you. Good evening. Give me a second, please. So, this is the
35 presentation for the Preliminary Parcel Map with Exceptions Application for 922 College
36 Avenue and 2160 Cornell Street. The project location is the western corner of those two
37 streets. It is located in the College Terrace Neighborhood and the property we are looking at is
38 owned by Stanford University.

39

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1 As background when the College Terrace Neighborhood was originally subdivided, this block
2 included...all of the lots were 25-feet wide by 115-feet deep. By 1912 the subject property was
3 legally two lots. One 50 by 115-feet and one 25 by 115-feet. In contrast, the standard R1 lot size
4 in today's Zoning Code is 60-feet wide and 100-feet deep, 6,000-square feet total. By 1952 the
5 City previously approved an application to demolish the existing garage at the rear portion of
6 922 College Avenue and subdivided the property to facilitate the construction of the house that
7 became 2160 Cornell Street. Although this subdivision was approved by the City, it was never
8 recorded with Santa Clara County; however, two APNs were created, one for each unit.

9
10 So, the project we are looking at this evening is to subdivide the property along the current APN
11 boundary. This creates two substandard lots. One which is 3,750-square feet and the other
12 which is 4,874-square feet. So, both lots currently have existing houses and those may either
13 remain as existing or be changed in a way that is compliant with the Zoning Code Development
14 Standards for R1 substandard lots. More specifically, the property with the current address,
15 2160 Cornell Street, would be 50-feet wide along the Cornell Street frontage and 75-feet deep
16 and the proposed lot number two is the current 922 College Avenue site which would be 65-
17 feet wide also along the Cornell Street frontage and 75-feet long.

18
19 Key consideration for the project approval is that although these lots are substandard, it would
20 be consistent with other lots in this neighborhood. It meets the Findings for an Exception as
21 demonstrated in the Staff Report and something to keep in mind is that the new lots would be
22 more in compliance with the Zoning Code than the existing, because currently the underlying
23 lot lines go through the existing building and the property does not meet the R1 Development
24 Density for one primary unit per lot. As such Staff recommends that the PTC approve the
25 project. Thank you.

26
27 [note – Ms. Tanner and Chair Templeton spoke at the same time]

28
29 Chair Templeton: Go ahead.

30
31 Ms. Tanner: I was just going to thank Emily and I think the applicant is here. Mr. Kirk?

32
33 Mr. David Kirk: Hi, yes, I'm here. I don't have a presentation. I was just going to read a brief
34 statement. I guess I want to just start off by saying good evening to everyone and thank you to
35 Emily for doing a great job summarizing our application. I just wanted to say a few words to
36 give the broader context of the project and why we submitted this application.

37
38 Like all employers in the Bay Area, housing is a major issue at Stanford. We have simply
39 programs to help faculty and Staff live nearby their place of work. These programs help us
40 recruit and retain the most qualified individuals.

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1
2 When this property was gifted to the University in 2019, we saw an opportunity to provide
3 housing for faculty in a very desirable neighborhood within biking distance to campus.
4 Unfortunately, the existing homes are past the end of their serviceable lives, so we decided to
5 invest money needed to replace them with two new homes. These homes will have all the
6 modern amenities buyers expect and will be built to current energy and water efficiency
7 standards. They'll have similar size and scale of the existing homes and will be appropriate for
8 the context of the College Terrace Neighborhood. Of course, before we can do that we need to
9 create two legal parcels that actually reflect the boundaries of the two lots. As Emily just
10 described, the City previously approved this subdivision in 1952. However, it appears the owner
11 at the time did not record the subdivision with the county. Somehow, they're still able to allow
12 to build a second home, separate utility services, and even though the subdivision wasn't
13 recorded.

14
15 So, essentially what we're asking with this application is that the City acknowledge this approval
16 that was previously granted and by doing so allow the existing use of these properties to
17 continue as it has been for the previous 68-years. Thank you very much for your time and
18 consideration and if you have any questions, myself as well as our project team are here on the
19 Zoom call.

20
21 Chair Templeton: Alright, thank you very much to Ms. Foley and to Mr. Kirk. Anything else from
22 Staff before we go to Commissioner questions and public comment?

23
24 Ms. Tanner: No, we don't have anything else to add at this time.

25
26 Chair Templeton: Great. Commissioners, if you have a question for Staff or the applicant. I see
27 some hands raised here. Commissioner Alcheck, Commissioner Lauing, and then we'll go to
28 public comment and we'll come back for discussion so just try to keep it to questions.

29
30 I should also mention that tonight we're going to... we're going to limit the first each pass of
31 comments or questions to 5-minutes and Mr. Nguyen will let us know if we start to exceed that
32 time. That way everybody has a chance and of course, we'll go as many times as needed for
33 everyone to get to their questions. Alright, Commissioner Alcheck, Commissioner Lauing,
34 Commissioner... Vice-Chair Roohparvar.

35
36 Commissioner Alcheck: Hi, good evening. So, thank you for the presentation, Ms. Foley. I did
37 not hear from you and I didn't find it in the report, although I have missed things in the past,
38 what I would characterize as issues of major significance associated with the proposed Parcel
39 Map. That would raise this to the level beyond one in which the Director of Planning could
40 dispose of this application himself. So, I guess what I'm asking is, this looks like a submission

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1 error in some respects and extremely insignificant. And I'm just unclear here why the Director
2 of Planning couldn't have just approved this proposed Parcel Map himself as opposed to
3 bringing it in front of the Commission.

4
5 Ms. Foley: This is considered a Parcel Map with Exceptions because although it is single-family
6 residential and only two lots. In addition to the fact that it creates substandard lots, typically if
7 it were merging two or more lots, then it would be something that the Director could approve;
8 but because it's technically going from two lots to two lots, it is required to go to the Planning
9 Commission.

10
11 Commissioner Alcheck: Is there written criteria regarding what the sub... a major significant?

12
13 Ms. Tanner: Yeah, I'm going to ask... yeah, I think you have a great question because I think it is
14 exactly what we had planned to do initially, and our attorney Mr. Yang can explain why we
15 needed to come to the Planning Commission because you're onto something.

16
17 Ms. Albert Yang, Assistant City Attorney: So, this is... sorry, this is before you because the
18 application is for a Map with Exceptions and Exceptions can only be granted by the Council on a
19 recommendation by the PTC. We have some exceptions to the Exceptions which are for if...
20 when you're merging lots to create greater compliance and this does not fall within the
21 exception to the Exception so here we are.

22
23 Commissioner Alcheck: Ok, so this, unfortunately, doesn't meet the criteria despite what I
24 guess I think it would be fair to say doesn't really have a major significance associated with it. Is
25 that also Staff's sort of impression that there isn't a major significance to this Parcel Map
26 Proposal?

27
28 Ms. Tanner: Yes.

29
30 Commissioner Alcheck: I mean I'm asking because you kind of teed it up in this report. You
31 went almost all the way. You went 99 percent of the way, so I just wanted to make sure that I
32 didn't miss that there's some issue here that you feel creates some significant (interrupted)

33
34 Ms. Tanner: Staff are supportive of this proposal (interrupted)

35
36 Commissioner Alcheck: Yeah, ok.

37
38 Ms. Tanner: And we don't see any significant impacts.

39

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1 Commissioner Alcheck: Ok, alright, thank you and I'll just add, maybe in the future an extra
2 bullet point, just to explain the nuance that this doesn't qualify as the exception to the
3 Exception for educational purposes for me. Thank you.

4
5 Chair Templeton: Thank you, Commissioner Alcheck. Commissioner Lauing.

6
7 Commissioner Lauing: Yes, thanks. I'd like to address the question to Mr. Kirk. It's helpful for us
8 to stay on top of the trends at Stanford in terms of what you're trying to do for your own needs
9 and how that impacts Palo Alto obviously. So, as I understand this you're going to... if I
10 understand you correctly, you're going to rebuild two homes and sort co-invest with someone
11 that's going to work there, or how's that going to work deed wise?

12
13 Mr. Kirk: These types of properties will often do one of two things. We'll either sell them
14 outright or we'll do a ground lease to a faculty member to reduce the cost of ownership.

15
16 Commissioner Lauing: Ok and is this is a trend that you think will continue? Accelerate? Be
17 moderate? Just kind of giving us a clue of where it's going.

18
19 Mr. Kirk: Sure. I'm probably not the best person to answer that question. I don't know if Nora
20 Dar from my office is on the phone. She might be a better [note – video and audio cut out]. I
21 don't know if she can just unmute herself or if someone has to unmute her.

22
23 Mr. Vinhloc Nguyen, Admin Associate III: I can unmute her.

24
25 [note – video and audio cut out]

26
27 Ms. Nora Dar: Options that we have in throughout the area, of course, some on campus. These
28 are two homes that were gifted to us, so we just want to as David said, turn them around and
29 make them available and ready for faculty. We look at various opportunities, but we have not
30 been very active most recently in College Terrace and we really are always looking at ways to
31 help our faculty. To recruit and retain our faculty in Palo Alto as housing has become so
32 expensive and we were fortunate that these two were gifted to us and we would just like to
33 make them available ready to sell to faculty.

34
35 Commissioner Lauing: Thanks.

36
37 Ms. Dar: Sure. We've had... yeah.

38
39 Chair Templeton: Alright, thank you. Thank you, Commissioner Lauing, and to our speakers and
40 then Vice-Chair Roohparvar and then we'll go to public comment.

-
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1
2 Vice-Chair Roohparvar: Yeah, I had a quick question for City Attorney Yang. It's a legal question
3 so what I understand and maybe it's my misunderstanding is that this exact lot line was
4 previously pre-approved way long ago and now the only issue is it wasn't recorded, but my
5 understanding of the law in California is recording is only for Purposes of Notice. And I'm fairly
6 certain that that is the law and if that's the case then wouldn't their lot line be valid? Why is it
7 even before us? Recordation doesn't [unintelligible] (interrupted)

8
9 Mr. Yang: Yeah so (interrupted)

10
11 Vice-Chair Roohparvar: Can you explain that to me? That's where I'm... that's kind of where my
12 head is at and what I'm not understanding. Can you explain legally if that's... did I understand
13 that right?

14
15 Mr. Yang: Yeah, so I think for many real estate transactions recordation is for the Purpose of
16 Notice but in the subdivision... in the context of a Subdivision Map Act, a subdivision is
17 perfected by recordation. So, (interrupted)

18
19 Vice-Chair Roohparvar: It expires because they didn't record.

20
21 Mr. Yang: Exactly and it's not effective until it is recorded.

22
23 Vice-Chair Roohparvar: Got it, got it, got it, got it. That's what happened here. You're right. Ok,
24 that's helpful.

25
26 Chair Templeton: Thank you very much. Alright, let's move on to public comments. We'll be
27 opening the floor for public comments on this item. Please raise your hand if you wish to speak.
28 Let's see, oh, I was going to try and give you some instructions on how to raise your hand but I
29 have lost them. Just a second to try and find them. Alright, you can use the raise hand function
30 on the bottom of your screen and if you're dialing in from a phone, please press *9. Mr.
31 Nguyen, are there any public speakers for this item?

32
33 Mr. Nguyen: Yes, it looks like we do have one public speaker and Rebecca, if you're there, you
34 may please speak.

35
36 Ms. Eisenberg: Thanks so much. I love to speak on these issues. As to this one, first of all, I
37 just... I felt I wanted to... I need to give a wake-up call to Commissioner Lauing and to anyone
38 else who isn't aware of what's going on in College Terrace. And this isn't to point fingers are
39 Stanford, a school I love very, very much. A school that is my alma mater, but possibly due to
40 the complications and difficulties with Stanford getting its new General Use Permit across, or

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1 for reasons I don't know. Stanford needs a lot of housing for its employees and for its most
2 expensive employees, the professors, and the way that Stanford appears to be solving that
3 problem is by purchasing every single house that goes on the public market in College Terrace.
4

5 So that is as far as I'm aware and I'd be happy to be corrected if I'm wrong. That is, I believe
6 how these two lots, these two homes got into the hands of Stanford. You know, as the
7 applicant says, Stanford needs housing. This is housing. Stanford purchased housing, but what I
8 really want Stanford and the Commission to be aware of is that allowing Stanford to buy
9 housing with these imperfect titles, which Stanford knew about, and as Commissioner Giselle
10 [note -Vice-Chair Roohparvar], I don't have your last name in front of you but as Commissioner
11 Giselle [note - Vice-Chair Roohparvar]... I hope that doesn't come across as disrespectful, I
12 mean respect. Pointed out this appears to be a problem with perfection and creating the
13 secured interest that Stanford's extremely qualified, well-paid lawyers were aware of at the
14 time of making the purchase. And in the land purchases that I've been involved with, this is
15 definitely something that we would have taken care of during the purchase. These
16 imperfections were known then so it looks like Stanford actually got kind of a good deal on
17 houses. Taking them off the housing market here in Palo Alto for Palo Alto families, to reserve
18 them for Stanford's professors and now is asking the City of Palo Alto to out of the goodness of
19 our hearts make these corrects for them. A correction that I don't really oppose but I think was
20 a really intelligent point that you all made when you were looking at this like why is this being
21 handled now? Why wasn't this dealt with before and why is this such a big deal?
22

23 The big deal I think, and I hope that you all will take, put attention to, and maybe look at things
24 like this where Stanford needs something from Palo Alto, is to consider that we in Palo Alto
25 need something from Stanford too. We kind of need Stanford to stop buying up every house
26 that becomes available in College Terrace because we have a really big housing shortage and
27 maybe we could work with Stanford so that Stanford can build the housing it needs on Stanford
28 land. That would be really exciting to work on. Thank you for your time.
29

30 Mr. Nguyen: Thank you Rebecca for your comments.
31

32 Ms. Eisenberg: You didn't bother me at all. I think I kind of nailed it, don't you think?
33

34 Mr. Nguyen: Ok, we have one raised hand from Nora but I don't think she qualifies as a public
35 speaker here, so with that, that concludes public comment for this item.
36

37 Chair Templeton: Thank you so much, Mr. Nguyen. Ms. Tanner, do we need to go back to the
38 applicant for comment at this time, or?
39

-
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1 Ms. Tanner: I believe that we do. So, if Ms. Dar is part of the applicant team, she could speak at
2 this time, or Mr. Kirk or they could share that time. And then so Vinh, can you please make Ms.
3 Dar available to speak and that way they can... if she does want to speak she can use that time
4 now. I believe she has 3-minutes.

5
6 Mr. Nguyen: Yes, she is able to unmute herself.

7
8 Ms. Dar: Ok great, I'm unmuted. Is... I was hoping to put my camera on, but I just wanted to
9 respond to a couple of the points. I... first to the comment about Stanford purchasing every
10 home in College Terrace. I just want to reiterate, these two properties that we're actually
11 talking about tonight were gifted to Stanford. They were not purchased on the open market
12 and they were not available on the open market and so Stanford did not acquire them that
13 way.

14
15 As the... on the Director of Housing Acquisitions for Stanford and over the last 24-months there
16 have been I want to say upwards of 12 trades... 12 to 15 trades per year in College Terrace.
17 Stanford has not bought any of those homes on the open market. So again, Stanford has a long
18 history since from its founders of providing housing to faculty through various programs,
19 though developments on campus and the homes that we own in College Terrace are a small
20 percentage of the overall housing programs that Stanford has. So, I'd just like to put... give a
21 few statistics to put it all in context of what we do own there.

22
23 Chair Templeton: Thank you very much. Does that conclude the applicant's remarks? Great, so
24 now let's go back to our Commissioners. If you have any discussion on this item, or if you wish
25 to make a motion please raise your hand. Commissioner Alcheck.

26
27 MOTION

28
29 Commissioner Alcheck: Thank you, Chair Templeton. I will... I'd like to make a motion. I'd like to
30 recommend that the City Council... dear... adopt the Parcel Map Findings that you can find on
31 Packet Page 18. I'm not going to read them out and I think... do I need to say the second part?

32
33 Ms. Tanner: I believe Ms. Foley's recommendation would be accurate. Is that right Ms. Foley for
34 the motion? Do you want to share that again?

35
36 Commissioner Alcheck: Is there a slide? Did I miss that?

37
38 Ms. Foley: Yes, I can bring that backup. Well, actually, I think that... if we could get clarification
39 from Albert. If this does become... if the Parcel Map goes to the Council or if that's a Staff level
40 thing?

-
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Mr. Yang: It will go to Council.

Ms. Foley: Ok, then the recommendation is correct.

Ms. Tanner: Can you share that slide? Thank you, Emily.

Commissioner Alcheck: Yeah, so yeah, recommend approval of the proposed project to the City Council based on the Findings and subject to the Conditions of Approval.

Chair Templeton: Thank you very much. Is there a second? Commissioner Hechtman.

SECOND

Commissioner Hechtman: I'll second the motion.

Chair Templeton: Thank you very much. Any comments before we take a vote? Please raise your hand. Vinh... Mr. Nguyen, would you please conduct the vote.

Mr. Nguyen: Commissioner Alcheck?

Commissioner Alcheck: Aye.

Mr. Nguyen: Commissioner Hechtman?

Commissioner Hechtman: Yes.

Mr. Nguyen: Commissioner Lauing?

Commissioner Lauing: Yes.

Mr. Nguyen: Commissioner Riggs is absent. Vice-Chair Roohparvar?

Vice-Chair Roohparvar: Yes.

Mr. Nguyen: Commissioner Summa has recused herself. Chair Templeton?

Chair Templeton: Yes.

Mr. Nguyen: Ok the motion carries 5-0-2.

-
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1
2 MOTION PASSED 5(Alcheck, Hechtman, Lauing, Roohparvar, Templeton)-0-2 (Riggs absent,
3 Summa abstain)

4
5 Chair Templeton: Excellent. Alright, I do not have my phone with me right now so would
6 someone volunteer to reach out to Commissioner Summa to let her know that this Agenda Item
7 is over.

8
9 Mr. Nguyen: Yeah, I will reach out to her right now.

10
11 Chair Templeton: Thank you so much.

12
13 **Commission Action:** Motion by Alcheck, second by Hechtman. Passes 5-0-2 (Riggs absent,
14 Summa abstain)

15
16 3. PUBLIC HEARING: Recommendation that the City Council adopt an Ordinance
17 Amending Palo Alto Municipal Code Section 18.52.070 (Parking Regulations for CD
18 Assessment District) to Temporarily Extend Ineligibility of Certain Uses to Participate
19 in the University Avenue In-lieu Parking Program until August 1, 2022.

20 Chair Templeton: So, let's move on then to Agenda Item Number Three. That is a public hearing
21 recommendation that the City Council adopt an ordinance amending Palo Alto Municipal Code
22 Section 18.52.070, Parking Regulations for CD Assessment District, to temporarily extend
23 ineligibility of certain uses to participate in the University Avenue In-Lieu Parking Program until
24 August 1, 2022. Alright, over to you.

25
26 Ms. Rachael Tanner, Assistant Director: Great, thank you for reading the title with a smile. I
27 think that was wonderful. We have our Long-Range Planning Manager Clare Campbell who will
28 be bringing this item before you and I will hand it over to you Ms. Campbell.

29
30 Ms. Clare Campbell, Planning Manager: Great, thank you. So, good evening Chair Templeton
31 and Commissioners. My name is Clare Campbell. I am the Manager of the Long-Range Planning
32 section. Tonight, Staff is bringing forward an ordinance to you that would extend the existing
33 ban on the use... on using the In-Lieu Parking Program for the downtown office uses above the
34 ground floor.

35
36 The existing ban is due to expire on February 1st, 2021. The proposed ordinance does not make
37 any changes to the details of this existing ban but specifically modifies the term to extend it for
38 an additional 18-months until August 1st, 2022. The intent of the extension is to provide Staff

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1 sufficient time to complete the additional analysis that's needed and then come back to the
2 Planning Commission to have a discussion and then return to City Council for consideration.

3
4 So, I'm going to give you a quick overview of the In-Lieu Parking Program. So, the Downtown In-
5 Lieu Parking Program is applicable to only commercial development and residential projects
6 cannot use this program. So, if you take a look at the slide, I've got a map up there of the
7 downtown parking area. I'm sorry, the downtown area. The blue boundaries on the screen
8 represent the Downtown Parking Assessment District. So, any parcel within the Downtown
9 Parking Assessment District can propose a commercial development and take advantage of the
10 Downtown In-Lieu Parking Program. So, a developer can choose to pay for an in-lieu parking
11 space instead of actually developing and constructing it on-site as part of the project. So, the
12 current fee today for a space is \$106,000 per space. So generally speaking, this is how the
13 program has been running for roughly the last 20-years. The temporary ban that was put in
14 place in 2019 added the restriction that prevents office use above the ground floor from using
15 the In-Lieu Parking Program. And then any projects that were submitted, any applicable
16 projects that had ground... office use above the ground floor submitted now, would have to
17 provide those parking spaces within the project, but we haven't had any projects submitted.
18 Just for that quick update.

19
20 The Planning Commission discussed and supported the in-lieu parking ban back in October of
21 2018 when the Housing Work Plan Implementation Ordinance was coming through for review.
22 In April of 2019 Council adopted the ban but specifically, they made it for office uses, not just
23 general commercial, and it was only for a temporary 1-year term. And the direction was given
24 to Staff to return to the Planning Commission to do some additional analysis on the impacts to
25 housing production if the In-Lieu Parking Program was modified, or we eliminated it, or
26 something like that and then to return to Council with some recommendations on that.

27
28 Some of the highlights of the 2018 discussion, I just want to kind of bring those up with you for I
29 know everybody... not everybody was there at that time. Staff analysis determined that the In-
30 Lieu Parking Program was a significant incentive that supported commercial development over
31 housing projects. And this was done through research and direct engagement with developers
32 at that time. So, in response to that Staff proposed restricting the participation in the In-Lieu
33 Parking Program to only ground floor commercial uses as one possible strategy to remove
34 barriers to housing development. And the thought there was that this could try to attempt to
35 even the development opportunity or burden between a housing and commercial project.

36
37 So, with everything that's been going on this past year; we have had vacancies; we've had our
38 responses to the pandemic. Unfortunately, Staff has just not had the resources to put towards
39 working on this particular task. So, when we went to Council back in May of this, 2020, they
40 acknowledged the situation and they adopted an Urgency Ordinance extending the ban for an

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1 additional 9-months until February of 2021. So, the good now is that we... through our Fiscal
2 Year Budget, we do have funding for some critical vacancies that we're filling. One of them is
3 me, we hired a Housing Planner this month which is fantastic, and we're hoping to get one
4 more person on board hopefully by the end of this year. So, we will have Staff ready to go to
5 tackle this project soon.

6
7 The tentative schedule that we've got worked out here is that in the springtime we're definitely
8 going to have the Staff analysis underway. By the summertime, we will have some study
9 sessions with the Planning Commission to explore options and the concepts that we're
10 developing. And then in the fall, we would bring those (interrupted)

11
12 Commissioner Alcheck: Have a great time.

13
14 Ms. Campbell: We would... in the fall we would bring the results of that discussion to the
15 Council to do a study session. And then we would start working on an ordinance and bring that
16 to the Planning Commission and Council for final review and adoption.

17
18 So, for next steps, the Planning Commission's recommendation is going to be forwarded to the
19 City Council for consideration on December 7th for the first reading. The second reading will be
20 scheduled in January on the 11th and then the ordinance would be effective 31-days after that
21 on February 11th. So, there's going to be a very short gap unfortunately of coverage, 10-days in
22 February, but we don't expect it to be an issue. We really just don't have a lot of development
23 happening in the downtown at this time.

24
25 So just to reiterate the recommendation. Staff's recommendation is the Planning Commission
26 recommend the City Council adopt an ordinance extending the existing temporary ban on
27 commercial office uses above the ground floor from participating in the City's Downtown In-
28 Lieu Parking Program for an additional 18-months as outlined in Attachment A of the Staff
29 Report and that ends Staff's presentation. Thank you so much.

30
31 Chair Templeton: Thank you so much, Ms. Campbell. I would say leave the Staff
32 recommendation slide handy in case we need to refer to it. Commissioners, do you have any
33 questions before we take public comment? If so, please raise your hand. Ok, so we will... oh,
34 Commissioner Summa, you are unmuted. Did you want to say something?

35
36 Commissioner Summa: No.

37
38 Chair Templeton: Oh ok. I just wanted to make sure I didn't miss your hand there. Ok, let's go
39 ahead and take public comment on this Agenda Item.

40

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1 Commissioner Alcheck: Chair Templeton, can I just quickly ask a question? I'm raising my hand
2 but you may not see it.

3
4 Chair Templeton: Oh, I don't see it. Oh, I see it now. I had scrolled down too far. Thank you so
5 much. Go ahead.

6
7 Commissioner Alcheck: Would Staff mind just sharing with us the rationale that Staff had back
8 in May for encouraging Council to allow the ban to lapse?

9
10 Ms. Campbell: My understanding... so I wasn't... so my understanding is that we hadn't seen a
11 lot of development... there wasn't a lot of reaction to the implementation of the ban being in
12 place. We didn't see a lot of things happening. We heard... I think what we were hearing is that
13 developers were actually waiting it out. They wanted to let it pass so we were thinking this is
14 how it's been working for this long. Perhaps with everything that's happening right now, maybe
15 it's not the right opportunity, the right time to bring this forward, but Council did emphasize
16 that they wanted us to continue to study it further and bring it back and that's what we're
17 doing.

18
19 Commissioner Alcheck: Ok.

20
21 Chair Templeton: Alright, let's move onto public comment. Is there anyone waiting for public
22 comment on this item?

23
24 Mr. Vinhloc Nguyen, Admin Associate III: There are currently no public comments for this item.

25
26 Chair Templeton: Ok, we'll do one more call, and then we'll close public comment. Please raise
27 your hand if you'd like to speak on this item. Alright, let's close public comment and go onto
28 Commissioner discussion. Commissioner Alcheck, your hand is up. I don't know if it's a holdover
29 from last time or if you had additional comments.

30
31 Commissioner Alcheck: I'll jump in if that's alright?

32
33 Chair Templeton: Ok, please do and just another reminder, we're going to continue with the 5-
34 minute rotation on this discussion.

35
36 Commissioner Alcheck: I got a little timer here.

37
38 Chair Templeton: Great, thank you.

39
40 MOTION

-
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1
2 Commissioner Alcheck: Oh, it just disappeared on me. There it is. Ok. So, I think I'd move to
3 recommend that we encourage Council to adopt the extension considering that they are... have
4 clearly indicated they want to do that, but I would also suggest to Staff that I think I could save
5 you guys a lot of money and time and tell you that if you want to encourage housing. Then
6 create an in-lieu program for housing. I think the idea that developers are waiting, I think it's
7 effective. I think creating a ban on utilizing in-lieu for commercial purposes is significant and
8 quite impactful on the commercial development as is the 50,000-square foot ban, or excuse
9 me, cap. But I would argue that a really sort of obvious way to encourage the development of
10 housing in that boundary, right, would be to potentially consider an in-lieu program for
11 housing, right? That in theory would significantly... with significantly reduced parking space
12 costs.

13
14 I think a lot of us in the community are very eager to see this work done because there are a lot
15 of antidotal theories about why housing isn't getting developed in our downtown. And so, I
16 would just suggest to you that to the extent that we could collect data, analyze it, and present
17 it. That would be really helpful because in the absence of that work there's a lot of perspectives
18 that don't really work together, suggesting all sorts of things and we haven't seen many
19 housing projects in downtown, so I support the extension. I also support the dedication of
20 funds and the commitment to do that work and I'd also suggest to you that I would volunteer
21 time as a Commissioner to assist in efforts to collect data or analyze data or I don't know, to the
22 extent that the Commission can be helpful. I would also encourage the Chair and Vice-Chair to
23 see if there is a way we can participate in the process of understanding better how to
24 encourage housing development downtown.

25
26 So, let me be really clear here. I would move that we recommend that City Council adopt the
27 ordinance amending Section 18.52.070, extending the ineligibility for certain uses to participate
28 in the University Avenue In-Lieu Parking Program until August 1st, 2022.

29
30 Chair Templeton: Thank you. So, that's the Staff recommendation, right? Ok, is there a second?
31 I see a few hands up. Ok, so Commissioner Lauing had his hand up before you Commissioner
32 Summa. I'll go to him. Did you want to second?

33
34 SECOND

35
36 Commissioner Lauing: Yes.

37
38 Chair Templeton: Ok so seconded by Commissioner Lauing. I think Commissioner Alcheck has
39 spoken to his motion. Do you want to speak to your second? Optionally. Ok, go ahead, please.
40 Oh, but you're on mute.

-
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1
2 Commissioner Lauing: Council has clearly sent this to us twice to work so we're going to work it
3 this time. In the meantime, we have to have a ban on it because they don't have the Staffing.
4

5 Chair Templeton: Any other comments before we take a vote? Alright, Mr. Nguyen, would you
6 please conduct the vote?
7

8 Mr. Nguyen: Commissioner Alcheck?
9

10 Commissioner Alcheck: Aye.
11

12 Mr. Nguyen: Commissioner Hechtman?
13

14 Commissioner Hechtman: Yes.
15

16 Mr. Nguyen: Commissioner Lauing?
17

18 Commissioner Lauing: Yes.
19

20 Mr. Nguyen: Commissioner Riggs is absent. Vice-Chair Roohparvar?
21

22 Vice-Chair Roohparvar: Yes.
23

24 Mr. Nguyen: Commissioner Summa?
25

26 Commissioner Summa: Yes.
27

28 Mr. Nguyen: Chair Templeton?
29

30 Chair Templeton: Yes.
31

32 Mr. Nguyen: The motion carries 6-0-1.
33

34 MOTION PASSED 6(Alcheck, Hechtman, Lauing, Roohparvar, Summa, Templeton)-0- 1(Riggs
35 absent)
36

37 Chair Templeton: Thank you very much. Alright so let me switch my screen here.
38

39 **Commission Action:** Motion by Alcheck, seconded by Lauing. Pass 6-0-1 (Riggs absent).
40

-
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1 4. PUBLIC HEARING/QUASI-JUDICIAL: Castilleja School Project, 1310 Bryant Street
2 [16PLN-00238]: Request by Castilleja School Foundation for Planning and
3 Transportation Commission Recommendation to City Council on Applications for a
4 Conditional Use Permit (CUP) Amendment to Increase the Student Enrollment cap to
5 540 Students With Phased Enrollment and Campus Redevelopment, and a Variance
6 to Replace Campus Gross Floor Area. The Project (but not the Project Alternative)
7 Requires Recommendation on a Variance for Subterranean Encroachment Into the
8 Embarcadero Road Special Setback and a Tentative map With Exception to Merge
9 Three Parcels Where the Resulting Parcel Would Further Exceed the Maximum lot
10 Size in the R-1(10,000) Zone District. Zone District: R-1(10,000). Environmental
11 Review: Final Environmental Impact Report (EIR) Published July 29 and 30, 2020;
12 Draft EIR Published July 15, 2019. For More Information Contact Amy French, Chief
13 Planning Official, at amy.french@cityofpaloalto.org

14 Chair Templeton: Our next Agenda Item, Item Number Four, is a public hearing quasi-judicial on
15 the Castilleja School project at 1310 Bryant Street. This is a continuation of this item from
16 previous meetings and we have concluded public comment on these... on this item and we are
17 in the midst of Commissioner discussion.

18 So, I would like to make some suggestions to our Commissioners. Again, I do want to encourage
19 people to limit their comments to five minutes, so we can hear from everyone and we will go
20 back, I promise. We will not leave your items un-addressed, but we do want to make sure that
21 we have a chance to hear from whoever wishes to speak.

22 And then as far as how to proceed from here, I believe Ms. French is going to give us a bit of a
23 recap from where we left off. So, and then we can pick up our discussion from there, so I'll send
24 it over to Staff.

25
26 Ms. Amy French, Chief Planning Official: Before I start, was there disclosures or anything else
27 that was going to happen?

28
29 Chair Templeton: Oh, great point. Any new disclosures? Please raise your hand. It does not
30 appear we have any additional disclosures.

31
32 Ms. Rachael Tanner, Assistant Director: So, you Commissioners know Ms. French. She will
33 capably remind us of the actions from the last hearing and we're so lucky to have her wading us
34 through this project so take it away Amy.

35
36 Ms. French: Ok, I am screen sharing. Excuse me while I once again figure out... let's see.

37
38 Ms. Tanner: I think if you go to slide show at the very top menu in the orange part.

-
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1
2 Ms. French: Yeah, I don't know why it's not doing it for me. Excuse me while I (interrupted)
3
4 Ms. Tanner: Try to un-share your screen and then re-share it. It may sometimes jog it a little bit.
5
6 Chair Templeton: It's a relief to know that I'm not the only one with technical difficulties tonight
7 Ms. French so. You... we... you have a patient audience I think.
8
9 Ms. French: It's a little crazy. Alright, let me try this way. I don't know why it's doing this but
10 let's see. Ok, are people seeing this?
11
12 Ms. Tanner: We do see your screen.
13
14 Ms. French: But it's not the way I want it to look.
15
16 Ms. Tanner: We see it in kind of the view as though you're creating it, so I think if you do to the
17 slide show tab, it should allow you to have a button to go to presentation mode.
18
19 Ms. French: Ok, that's the problem is I wasn't (interrupted)
20
21 Ms. Tanner: Full screen [unintelligible](interrupted)
22
23 Ms. French: I wasn't full screen enough, ok. Now, are you seeing just one [note – audio cut
24 out]? Oh, my goodness. Are you seeing one slide now?
25
26 Ms. Tanner: What you need to... now what you'll do is go to the top where it says display
27 settings.
28
29 Ms. French: Yes, there we go. I got it. Ok so sorry.
30
31 Ms. Tanner: There we go.
32
33 Ms. French: I was working on too many things while the.... ok.
34
35 Ms. Tanner: Perfect. It looks wonderful. Thanks, Amy.
36
37 Ms. French: So, back last time we were here was November 4th and that was when the Planning
38 and Transportation Commission conducted the latter part of the public comment portion of the
39 hearing, and then began... closed the public comment portion, and began deliberating on the
40 Draft Conditions of Approval. To start out there were several motions made. One of the

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1 motions was passed and actually two motions were passed and the first was passed on a 5-2
2 vote with some nonexclusive lists of changes. Basically, here they are in the bullets with specific
3 conditions as well as multiple items, typos, and the like from the Hechtman memo that was
4 received prior to the hearing so these were addressed at that hearing. The second motion that
5 passed was another 5-2 vote regarding the trips and so that was that.

6
7 Then we have received written comments since the November 4th hearing and so displayed on
8 the screen. We do provide all of the comments received in writing on our webpage for the
9 project and we did receive a few more today. So, after yesterday's comments, we did receive a
10 couple more today that were forwarded to the Planning and Transportation Commission. And
11 one of those comments was the applicant's letter regarding the... requesting reconsideration of
12 the motion that was made regarding that Condition 22. So, that basically concludes the Staff
13 presentation brief, and happy to bring those up again if anyone wants those.

14
15 So, tonight the deliberations on the conditions can continue as well as tackle the Findings for
16 the Conditional Use Permit and Variance requested by the applicant. I know we have the
17 applicant team is here if anyone has questions of the applicant team. That concludes my
18 presentation.

19
20 Chair Templeton: Thank you so much, Ms. French. Commissioners, please raise your hand if you
21 wish to make comments, ask questions, etc. I will also suggest based on how it went last time
22 that if you do want to make a motion with any suggestions and changes that you may propose.
23 That might be helpful to go along and make the motions as we go along. We can make any
24 number of motions and we don't have to hold it up till the end. I know we had a ton of
25 comments. I've got all my flags on the notes here so there's no reason to hold off until the end
26 of "the end". You can just make them as you go along. Alright, the first hand I see is
27 Commissioner Hechtman.

28
29 Commissioner Hechtman: Thank you. Actually, I wanted to start with a question of Staff. Some
30 clarity that may be beneficial to the Commission as we talk tonight. One of the pieces of
31 correspondence that came in from the public reflected a variety of statements of the square
32 footage of existing square footage of buildings at Castilleja, which potentially has an effect on
33 how we look at the Variance to retain square footage. And I'm wondering if Staff has had a
34 chance to review that and can tell us how many countable square feet there are in the existing
35 buildings at Castilleja?

36
37 Ms. French: So, the issue about counting floor area, over the year... I mean I can tell you that
38 between 2006... I did have a look at the memo. Between 2006 and the application submitted in
39 2016, there was no additional Building Permits obtained to add to the square footage on the
40 campus. So, really that kind of comes down to what was being counted in 2006 versus what is

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1 counted today with much more accurate measurements in today's very scrutinized application
2 as opposed to... the gym replacement project was replacing with below-grade square footage
3 and was not highly scrutinized for all the square footage on the campus like this application is.
4 This is a full redevelopment of the campus leaving two buildings untouched, so the current
5 application is the correct square footage.

6
7 Commissioner Hechtman: And that's 116,000 and change?

8
9 Ms. French: Yes.

10
11 Commissioner Hechtman: Thank you.

12
13 Chair Templeton: Alright, do any other Commissioners want to make comments or motions? I
14 don't currently see any hands up. If I'm missing you, please let me know. Commissioner Summa
15 followed by Commissioner Hechtman.

16
17 Commissioner Summa: Commissioner Hechtman can finish if he wasn't done.

18
19 Chair Templeton: Oh, I thought... was I mistaken? I thought you have finished.

20
21 Commissioner Summa: Oh, I don't know. Ok. There were four... this is also regarding the same
22 question that Commissioner Hechtman had. There were four City documents over the years
23 that were attached from 2006 to 2020 attached to that email from a member of the public that
24 have the square footage at 99,831. And it's hard for me to understand how that's not the
25 correct number when it's in so many City documents. And in fact, that number is over what
26 would be allowed on the parcel which we know is 81, and some change. I always forget exactly
27 what it is, but I still don't understand the 116. It looks like it grew paper. I still don't quite
28 understand that. Its... there seems to be a lot of City documents that have the 99,831 number
29 so can Staff shed any more light on that? It can't just be that we measure better now than we
30 measured in 2006. I think (interrupted)

31
32 Ms. French: It may have been that we measured not at all in 2006.

33
34 Commissioner Summa: That sounds kind of (interrupted)

35
36 Ms. French: What was presented in the application was replacement of square footage and
37 back then it was not thought of that a Variance would be the method to do that. It was by
38 Conditional Use Permit and so there was not the high level of scrutiny that has been placed on
39 this project because we're using the Variance as the approach to consider this application for
40 the square footage.

-
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So, as I said before, the last time this happened in 2006 the application was focused on replacement of one building and retention of everything else on the campus, and replacement of a gross floor area above gross floor area was not done through a Variance and was not scrutinized as it is today. So, that number that came in back in 2006 was what the applicant presented as the number is all I can say.

Commissioner Summa: Ok, thank you.

Chair Templeton: Do you have any additional questions at this time, Commissioner Summa? I don't want to move off of your questions prematurely. Alright, I think she's done. I don't see any other hands raised. Now's the time folks. We continued it because you had things to say. Alright, Commissioner Hechtman.

MOTION #1

Commissioner Hechtman: Thank you. I'm going to make a series of motions. As I mentioned on November 4th, I think what we need to do is finish our recommendation on the conditions so then we have a... we know what the project is and then we can attack the Findings. And at the November 4th meeting I mentioned four conditions that I'd like to see revised from Staff. The first one we already dealt with. That was Condition Number 6 where a majority of the Commission is going to... has voted to recommend 74 special events per year. So, I would just like to move through the other three conditions that I identified, and I think it's simplest to just do these individually. And then we'll see if anybody else has other conditions and then I would suggest to the extent we get through that process, then somebody would make a motion as to all of the other conditions that none of us... that we haven't moved, be any different from Staff's recommendation. Just to move the Staff recommendation as to all of those other conditions.

So, I'm going to start with Condition Number 7 and make a motion that Condition 7, which relates to Palo Alto Unified School District events, that Staff modify that condition to require Castilleja to provide traffic management for any events that happen pursuant to Condition 7. So, that's my motion.

Chair Templeton: I have taken note that Commissioner Lauing raised his hand to go next so if you want to put it down I will go come back to you. Is there anyone who would like to second this motion?

SECOND

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1 Vice-Chair Roohparvar: I'll second it. That sounds reasonable to have TDM.

2

3 VOTE

4

5 Chair Templeton: Alright, thank you, Vice-Chair Roohparvar, and does anyone want to speak
6 further to this motion? Ok. Mr. Nguyen, would you like to conduct a vote?

7

8 Ms. Nguyen: Commissioner Alcheck?

9

10 Commissioner Alcheck: Nay.

11

12 Ms. Nguyen: Commissioner Hechtman?

13

14 Commissioner Hechtman: Yes.

15

16 Ms. Nguyen: Commissioner Lauing?

17

18 Commissioner Lauing: Yes.

19

20 Ms. Nguyen: Commissioner Riggs is absent. Vice-Chair Roohparvar?

21

22 Vice-Chair Roohparvar: Yes.

23

24 Ms. Nguyen: Commissioner Summa?

25

26 Commissioner Summa: Yes.

27

28 Ms. Nguyen: Chair Templeton?

29

30 Chair Templeton: Yes.

31

32 Ms. Nguyen: Ok the motion carries 5-1-1.

33

34 MOTION #1 PASSED 5(Hechtman, Lauing, Roohparvar, Summa, Templeton)-1 (Alcheck) -1(Riggs
35 absent)

36

37 Chair Templeton: Thank you very much. Back to you Commissioner Hechtman.

38

39 MOTION #2

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1 Commissioner Hechtman: Thank you. Next, I'd like to make a motion regarding Condition
2 Number 9 which regards summer enrollment, and as I mentioned last time it's not clear
3 whether the maximum summer enrollment is the same as the prior academic year or the
4 upcoming academic year. I think the intent is that it carries forward the prior academic year and
5 so I would move... make a motion that we recommend Condition 9 as modified by Staff to state
6 that the maximum summer enrollment is the same as the maximum academic year enrollment
7 for the school year ending that summer.

8
9 SECOND

10
11 Vice-Chair Roohparvar: I'll second.

12
13 Chair Templeton: Thank you very much.

14
15 Vice-Chair Roohparvar: Oh, did I jump the gun on that? I'm so sorry.

16
17 VOTE

18
19 Chair Templeton: No, that's fine. I appreciate that. So, any discussion? Ok. Mr. Nguyen, would
20 you please conduct the vote?

21
22 Ms. Nguyen: Commissioner Alcheck?

23
24 Commissioner Alcheck: Aye.

25
26 Ms. Nguyen: Commissioner Hechtman?

27
28 Commissioner Hechtman: Aye.

29
30 Ms. Nguyen: Commissioner Lauing?

31
32 Commissioner Lauing: Yes.

33
34 Ms. Nguyen: Commissioner Riggs is absent. Vice-Chair Roohparvar?

35
36 Vice-Chair Roohparvar: Yes.

37
38 Ms. Nguyen: Commissioner Summa?

39
40 Commissioner Summa: Yes.

-
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Ms. Nguyen: Chair Templeton?

Chair Templeton: Yes.

Ms. Nguyen: The motion carries 6-0-1.

MOTION #2 PASSED (Alcheck, Hechtman, Lauing, Roohparvar, Summa, Templeton)-0- 1(Riggs absent)

Chair Templeton: Thank you very much. Commissioner Hechtman?

Commissioner Hechtman: Thank you and the last one I want to make a motion on, although I do expect somebody may want to at least talk about Condition 22 but maybe not.

Chair Templeton: Oh, I'm so sorry to interrupt. I forgot to give Commissioner Alcheck a chance to speak to his no vote. Can we go back to that quickly before we get to the next one? I apologize.

Commissioner Hechtman: Condition 7.

Commissioner Alcheck: Yes, the first one I did not support because I understand the partnership is an effort on the part of Castilleja to I guess I would say share the wealth with the Palo Alto High School. I don't think that those events should be solely burdensome financially from a TDM perspective on Castilleja. It seems like... it's like the Palo Alto High School doesn't have to any TDM Measures on their own campus and they don't have to do any TDM Measure when they're utilizing Castilleja's campus either. There's something uniquely inequitable about that so I think one of the things that I realized in greater... to a greater extent this week from reading some of the correspondence we had. Specifically, from Fehr and Peers, was that the data collection and the TDM data analysis if you will be expensive and so I think if we're going to take advantage of this option to have Castilleja host or to work with Pally. We should think about how those costs might be shared, so that was the reason why I didn't support that motion.

Chair Templeton: Thank you very much. I'm sorry we missed that opportunity earlier. I'm glad you got it in. Back to you Commissioner Hechtman, my apologies.

MOTION #3

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1 Commissioner Hechtman: Thank you. So, moving to Condition 29, in my reading of Condition 29
2 and Mitigation Measure 7a there's a lack of clarity and some potential overlap. And I think that
3 Mitigation Measure 7a from the EIR should be the exclusive method of addressing overages of
4 ADT and AM Peak overage. Both of those overages and so for Condition 29 I would move that
5 we recommend to the Council a modified version of Condition 29 that clarifies that overages of
6 ADT and AM Peak are exclusively addressed in Mitigation Measure 7a.

7
8 Chair Templeton: Alright, any second?

9
10 Commissioner Alcheck: I'm sorry. Can I get you to tell me what Page you're on?

11
12 Vice-Chair Roohparvar: Yeah.

13
14 Chair Templeton: So, 29 is on Packet Page 42 of the... I'm looking at... yeah, the October 28th
15 printed Packet we got. I don't know where... do you know Commissioner Hechtman where is
16 the 7a Mitigation? What page it's on?

17
18 Commissioner Alcheck: And then Commissioner Hechtman, would you want... would you recite
19 that motion one more time after you tell us what page you're on?

20
21 Commissioner Hechtman: Sure, let me... so, I'm looking at the... our Packet from October 28th
22 which has the table of MMRP Mitigation Measures and Mitigation Measure 7a starts on Packet
23 Page 126 and it continues until Packet Page 131 so it's a six-page mitigation measure.

24
25 Condition 29 you can find, let's see, on... nope, not it.

26
27 Chair Templeton: Packet Page 42 I believe Commissioner.

28
29 Commissioner Hechtman: 42? Yeah, yeah, so 42... on Page 42 of the Packet Page again for
30 October 28th, you'll see Condition 29 is a half-page and the... actually, the crossover... the
31 overlap I see is in the introductory sentence and let me just read it. "Upon written notice from
32 the City of Palo Alto, increases to student enrollment may be suspended when the school is
33 found to be in violation of any Condition of Approval, including but not limited to the approved
34 Transportation Demand Management Plan, anticipated student drop off distribution, or
35 environmental mitigation measures, subject to the following criteria" and then it walks through
36 the short process. My reading though is Condition... Mitigation Measure 7a has a much more
37 stringent process and much more concrete penalties if you will. That's where you find for
38 example the 5 percent enrollment reduction, the possible 10 percent enrollment reduction and
39 so I think it should be clear that that is the source of enforcement, 7a, where 7a applies. Rather
40 than 29 which I see as capturing areas outside of Mitigation Measure 7a. Is that helpful?

-
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Chair Templeton: Assistant Director Tanner, did you have a comment?

Ms. Tanner: The only comment was that the Condition of Approval 35 is on Page 43 of the printed Packet if that's helpful for Commissioners and I believe it's on Page... Ms. French is that 28 of the (interrupted)

Ms. French: No, it's on Page 43 of the online Packet for October 28th. Packet Page 43.

Ms. Tanner: Page 43. Ok, if that's helpful for Commissioners.

Mr. Albert Yang, Assistant City Attorney: Sorry, the clarification there is that Condition of Approval 35 supplements Mitigation Measure 7a because it applies in the construction period which is not covered by 7a. So, I think Commissioner Hechtman to effectuate what you're looking for, you would want Condition 29 to say that ADT and AM Peak are subject only to Mitigation Measure 7a and Condition of Approval 35.

Commissioner Hechtman: Yes, that would be acceptable.

Chair Templeton: Ok, now we are looking for a second.

SECOND

Vice-Chair Roohparvar: I'll second that.

Chair Templeton: Thank you very much, Vice-Chair Roohparvar. Any discussion before we take it to a vote? Commissioner Lauing.

Commissioner Lauing: Two questions on this. One is going forward they might have to do more things than what's mitigated in 7a so we wouldn't want to preclude them from being able to do more things. So, I want to make sure it doesn't get too restrictive, so I guess I'd ask the attorney for input on that, but while I'm at it. The second one is, this is one that I parenthetically sort of mentioned last time. These terms of a cure seem quite long. That there's 45-days to take corrective action, 60-days after notice, so and without wordsmithing from the virtual dais. I just would wonder if Staff would look at kind of tightening those things up, so we can get on with the correction promptly. So, I would just add that either... it doesn't even have to be a friendly amendment. It's just something that I think Staff should look at and know what Mr. Hechtman thinks of that. You're on mute.

Commissioner Hechtman: I don't really have an issue with what you're suggesting, but what I'm trying to do at this point is restrict 29 rather than... through clarification and I think it would be

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1 cleaner perhaps with a separate motion with specifics of how you want to tighten up 29 for the
2 things that it applies too.

3
4 Commissioner Lauing: It's fine to be restrictive. I'm just suggesting that if something... if all
5 those eight pages don't work and they want to try another half a page to get something to
6 work. That's something they ought to be able to do, that's all.

7
8 Commissioner Hechtman: Under my motion, they wouldn't be able to. That's the point of my
9 motion is for an exceedance of ADT or AM Peak, that is the... Mitigation Measure 7a is the
10 remedy.

11
12 Commissioner Lauing: Ok.

13
14 Chair Templeton: And that's basically to make a single point of... a single source of what to do
15 about it rather than have... it's disambiguating. Is that your intention? Ok. I saw Commissioner
16 Summa's hand up as well, but Commissioner Lauing, please continue if you have another
17 comment. No? Ok. Commissioner Summa.

18
19 Commissioner Summa: No, I'm ok. I think Commissioner Lauing clarified my question.

20
21 VOTE

22
23 Chair Templeton: Alright, so we have a motion and a second and no hands up so let's conduct a
24 vote, Mr. Nguyen.

25
26 Mr. Nguyen: Commissioner Alcheck?

27
28 Commissioner Alcheck: Aye.

29
30 Mr. Nguyen: Commissioner Hechtman?

31
32 Commissioner Hechtman: Yes.

33
34 Mr. Nguyen: Commissioner Lauing?

35
36 Commissioner Lauing: Yes.

37
38 Mr. Nguyen: Commissioner Riggs is absent. Vice-Chair Roohparvar?

39
40 Vice-Chair Roohparvar: Yes.

-
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Mr. Nguyen: Commissioner Summa? Commissioner Summa?

Commissioner Summa: No.

Mr. Nguyen: Ok. Chair Templeton?

Chair Templeton: Yes.

Mr. Nguyen: Ok the motion carries 5-1-1.

MOTION #3 PASSED 5(Alcheck, Hechtman, Lauing, Roohparvar, Templeton)-1 (Summa)-1 (Riggs absent)

Chair Templeton: Thank you. Commissioner Summa, did you want to speak to your no?

Commissioner Summa: Yeah, I didn't think it was wise to limit the ways in which we might be able to look at how they're meeting their... the Conditions of Approval, and I didn't have a problem with it, but I am having a problem hearing people though. People are breaking up a lot for me so that's kind of hard. I don't know if anyone else is having that problem.

Ms. Tanner: Commissioner Summa, you are breaking up a little on this end too. And, having fought my share of internet battles today, I could suggest maybe for a little while to... if you want to turn your video off that might increase your bandwidth.

Commissioner Summa: Ok thank you.

Chair Templeton: You're welcome. Alright, Commissioner Hechtman did you have anything else?

Commissioner Hechtman: No, I... those are the conditions that I wanted to pursue modification of, so I'm open... I'm looking forward to hearing if any other Commissioners want to modify and of the other conditions recommended by Staff.

Chair Templeton: Thank you. Commissioner Lauing, I had you next on my list.

MOTION #4

Commissioner Lauing: I do have a couple of small ones related there but I think I want to start with my big one and that's back over on Condition 4 which is enrollment. Sorry, I [unintelligible]

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1 and unlike I normally do Chair Templeton, I will probably be using the full 5-minutes to address
2 myself on this one. It's a super big issue relative to the entire project on both sides of the issue.

3
4 So, I just wanted to state a couple of obvious things first of all but for the public as well. A CUP
5 is not a right. We talked about property rights, but a CUP is not a right in and of itself. It's a
6 privilege that's decided on by the City and its sole discretion. We know that Castilleja's a school
7 in an R1 Zone and there are other uses for that kind of land. Over the months we've heard from
8 the public and even from some Commissioners that maybe Castilleja should move or move to
9 split up their campuses. I think the school is outstanding, is an asset, and should stay in Palo
10 Alto and remodel; but our assignment on PTC is to make a recommendation to Council on the
11 CUP Findings and conditions. But as I noted before in comments, we also retain broad
12 discretion over whether those Findings can be made, Page 10 of the Staff Report from October,
13 and that's because we have to decide for the whole City, not even just the neighborhood if the
14 CUP request is justified given any collateral damage well beyond the EIR; or, stated in another
15 way, we have to evaluate the risk and make recommendations in light of the risk.

16
17 Also, Packet Page 16, it said PTC has wide discretion in its recommendation concerning
18 enrollment, which is the topic I raise right now, and I raise it because enrollment is really the
19 driving force behind the entire Castilleja project and CUP. And the question is will that cause
20 unacceptable collateral issues? So, in the very first part of this now three-part hearing, I asked
21 Ms. Kauffman where the 540-enrollment request number came from and the answer was it's
22 the most students that we can educate within the TDM requirements. So, the 540 goes right up
23 against the limit of what can be managed with their projected TDM mitigations. And I also
24 asked for the probability of success of the TDM and the traffic manager said it's going to be
25 challenging and I agree. Oh, I also pointed out at that time that we were originally told by
26 school officials that there would be no net new trips and that that was already creeping
27 upwards.

28
29 So, Commissioner Riggs argued in the last meeting that the TDM is the key here, which it is, and
30 if it works then there's really no problem for a 540-student request; which is obviously
31 mathematically true, but the problem is that it leaves out the other side of the equation of
32 what if? What if it doesn't work? Then we have a traffic problem and there's right now no
33 backup plan there. There's no safety net.

34
35 The suggested Castilleja mitigations, like any mitigations in a plan, are a plan and that plan has
36 never been put in place before at an enrollment of 540. So, by definition, that means that
37 there's risk of not meeting the goals when you move up to that kind of a scale. Many public
38 speakers and letter writers to us over these last three pieces of this hearing have stated that
39 the proposed mitigations for traffic are proven so what's the problem? Let's get this approved.

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1 Well, obviously it's not proven because mitigations are a plan, it's a spreadsheet kind of thing
2 with variables and it's about the future and not all variables come true in spreadsheets.

3
4 So, I think given the risks now, the City needs a safety net and we know it's easier to manage
5 the TDM at lower numbers of students because Castilleja is successfully doing that right now
6 and I salute them for that, but it gets harder as enrollment increases. That's just simple facts.
7 So, I think the safety net solution is to lower the requested 30 percent increase in enrollment to
8 450, and that reduces the risk in this CUP. So, 450 instead of 540. That happens to be a number
9 that also was thrown out by the neighbors a couple of times, but I just did my own calculations
10 on that. It also addresses the huge issue of trust which Ms. Kauffman also voluntarily
11 mentioned in her comments.

12
13 As late as '18, the school and City were still in dispute about the number of events involved that
14 could be allowed. There are varying versions of a comment that we heard at the last meeting
15 that the school quickly and proactively notified the City when an enrollment overage was
16 discovered. So, that's still on the table and she was right to admit that, and I think we need to
17 keep addressing that. So, for this CUP at 450, changing this one condition means the school
18 does not have to move, it's way easier to hit the TDM metrics, it can remodel the entire
19 campus, expand your student body, and help create trust. So, I think that that's a win for this
20 CUP.

21
22 Now what I think is going to happen is the applicant will offer an objection that says well then,
23 we have to do another CUP x-years out, but that process would be totally different because
24 with a successful TDM. The new CUP is just asking for some more students. There's no EIR,
25 there's no remodeling and construction. So, it would take a few months, not years and it would
26 be a reward for proven performance as opposed to what we have now which is penalties after
27 we already grant 540.

28
29 Without a reduction in the enrollment request, we don't have a backup plan for traffic. It's not
30 a risk that the City has to take, or that it should take, given the history and given our need to
31 evaluate risk. And there's really literally no reason that right now to grant the 540 because you
32 can still get all the benefits and raise the enrollment request at a later period. So, that's how I
33 feel about that and that would be the suggestion that I put into the enrollment as a motion.

34
35 Chair Templeton: Alright so recapping the motion succinctly, it's to change Condition Number 4
36 to 450 students. Is there a second? Commissioner Summa?

37
38 SECOND

39
40 Commissioner Summa: I'll second.

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Chair Templeton: Thank you very much. Anyone wishes to discuss this? Commissioner Alcheck.

Commissioner Alcheck: A couple of questions for Commissioner Lauing. Can you articulate to me why the safety net in this approval doesn't meet your definition of a safety net? I'll be more specific. The enrollment increases are subject to hitting specific marks. Failure to hit that mark means no enrollment increase and you had said that there wasn't a safety net. So, can you help me understand why you feel this safety net is inadequate?

Commissioner Lauing: Yeah, I think the beginning point is that there's no reason that we have to commit now in this year in this CUP to go to 540. I think we want to see some proof of competence before we go up to 540. Not to mention, the reduction of next year's set of 25 or 27 as we see in these conditions is extraordinarily complicated and backing it out and so on. In this case, as soon as construction is over they can add the 24 students approximately, and then all we have to do is manage any overage at the 450 mark.

Commissioner Alcheck: So, just to be clear, is it your impression that this Condition of Approval grants 540 outright?

Commissioner Lauing: It grants a process for them to get there outright. There's no pulling back down to 4 anything if they hit their TDM marks.

Commissioner Alcheck: I don't know that I would characterize that the same way. I think that the whole notion of suspending increases to student enrollment if the school is in violation of any of these conditions is the definition of a safety net with respect to enrollment size. So, I think we'll just have to agree to disagree here. I don't... I have not interpreted this... these Conditions of Approval to essentially put us in a position where we are stuck with traffic without recourse. It seems to me it's the exact opposite. That the conditions essentially create a framework by which the school would have to meet certain hurdles before they could continue to grow. So, I will not be able to support that motion.

I also am... would suggest that would your motion... would your logic change if you found out that an EIR would be required if they came back for an enrollment increase?

Commissioner Lauing: I can't answer without (interrupted)

Commissioner Alcheck: Well you suggested that if they came back for an enrollment increase down the road, an EIR wouldn't be required and so that's a better solution for you. If that wasn't the case, would you still suggest this path?

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1 Commissioner Lauing: I understand the question, but I'm... I don't think it's relevant.

2

3 Commissioner Alcheck: Ok so then I guess it doesn't matter if (interrupted)

4

5 Commissioner Lauing: I think it's (interrupted)

6

7 Commissioner Alcheck: An EIR is not required.

8

9 Commissioner Lauing: It sounds to me that if the number was a 1,000 instead 540, you'd be ok
10 with that as long as they could mitigate.

11

12 Commissioner Alcheck: That's... no, that's putting words in my mouth.

13

14 Commissioner Lauing: That's what I'm asking.

15

16 Commissioner Alcheck: No, I think the... if you're asking me what I think, I think if the school can
17 perform in such a way where there are no net new trips. Then the logic behind saying you can't
18 have the bodies in the classrooms fails. There... the... as the attorney for the group of residents
19 who are in opposition of this project suggested, the logic should be to mitigate the impacts. Not
20 the students and so I would suggest to you that you're doing... focusing on the number of pupils
21 in a classroom if you will, or in a grade, ignoring whether the mitigation efforts essentially
22 eliminate their... any impacts of growth in that pupil number would be doing the opposite of
23 what the attorney for the residents eloquently suggested we do. And I shared her view there so
24 no, I'm not suggesting 1,000 students, but I do think that the framework here provides a safety
25 net. And that's why I won't support a motion that you're proposing right now suggesting that
26 there is no safety net.

27

28 Chair Templeton: Thank you both. Commissioner Summa followed by myself.

29

30 Commissioner Summa: I think what we're trying to do with this project is find a really successful
31 way to move forward with it and one of the ways I think we'll be able to do that is by meeting
32 some of the needs of the neighbors as well. And I do note that the enrollment could be
33 increased with time as everybody feels assured that the traffic is being managed correctly. And
34 I also think that the enrollment also doesn't have to just do with how many students are there
35 in classrooms, but it has to do with events and how many parents and grandparents and uncles
36 and aunts will be at events. So, I think it's more complicated than just how many students in a
37 classroom, and I'm confident that if we start it at a lower maximum. As Castilleja proceeds with
38 their very strong TDM Program and they show success in that. Then they can come back and
39 get another... ask for an enrollment.

40

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1 Chair Templeton: Thank you, Commissioner Summa. I would like a little bit of clarity on this Ms.
2 French. So, the current structure for enrollment says we're going to go to 540, here's the steps
3 in that chronological order, and then we skip to the enforcement section for if they don't meet
4 their obligations then we reduce enrollment until the obligations are met. Is that correct of how
5 it's structured with (interrupted)

6
7 Ms. French: Are you... so Condition Number 4, are you specifically... because that's what we're
8 talking about right now? Condition 4?

9
10 Chair Templeton: Yes, I'm talking about Condition 4, and then later the enforcement section is
11 where if they don't meet the commitments then actions are taken. Is that how it's currently
12 structured in the CUP? When does enrollment change and under what conditions and what
13 section is that?

14
15 Ms. French: So, enrollment changes in certain milestones at a certain rate. That is 25 students
16 per year with milestones of construction. But then as far as the enforcement goes, if they do
17 not hit their targets set forth by Mitigation Measure 7a for traffic, there is... there are
18 consequences that are dealt with within later conditions and I'm going to look those up now.

19
20 Chair Templeton: Ok, that's... I think that's fine. I was kind of generally just trying to understand
21 the structure of how the enrollment is being proposed and I think that's really the key to what
22 Commissioner Lauing is bringing up. Is that it's a whole different vibe to say here you have this
23 and if you don't do it then I'm taking it away versus here's a path towards increased
24 enrollment. And the milestones of the mitigation are in a whole different section and it appears
25 to be taking away rather than building on the trust. So, I don't know if we can... if that's too
26 much restructuring. I know we just dealt with Item 29, but I agree on the level of it is much
27 harder to take something away than to mutually build trust and add in enrollment. And I think
28 that's the intention of how it's drafted, right? I think the intention is here's the milestone and
29 here's in addition to the time milestones, we also have the 7a Mitigation checkpoints. That's
30 the intention of how it's built.

31
32 Ms. French: And yes, coupled with the reporting you know starting at three times a year and
33 then moving to two times a year with decreasing rates per student of trips over time.

34
35 Chair Templeton: So, I'm inclined to agree with the sentiment. I won't be supporting this
36 specific motion, but I would ask if Commissioner Lauing would be interested in sending it back
37 so that we could restructure these two sections to be a little bit more positive and focus on that
38 trust-building you were talking about. So, I want to throw that out there. It might mean another
39 iteration on this and I'm aware we've been through many iterations on this, but I do think that
40 structuring as taking away is very different than structuring as moving forward together.

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Commissioner Lauing: Was that a question to me?

Chair Templeton: It was a suggestion to you. You don't have to respond.

Commissioner Lauing: Oh, so I'm not sure I understand what you would correct because what I'm suggesting, as you just eloquently put it, is that we... it's very simple. There's only one milestone at 450 which if they think they can make 540. They're going to sure make 450. It takes the pressure off them. There probably won't be a problem. It's not going to change the timing much at all of pacing out from there, but trust is restored in the neighborhood. The project goes forward and we all kind of ride off in the sunset together. If we're going to switch it around, it's going to go back to taking something away if you've already granted the 540.

Chair Templeton: The main difference in the structure that I would be more supportive of is your motion removes the path to 540 and instead suggests coming back for another CUP. I would love to see that path with those checkpoints baked in, in a more positive fashion from the get-go because I think as long as those milestones are in there. That's... that works better for me. I think it's just a little bit confusing the way it's structured right now but yeah, I'm loathed to suggest coming back for another CUP to change that number. I mean I... yeah.

Commissioner Lauing: No, what I am focusing on at this point is the enrollment number because I think that's what creates the risk quite simply because the mitigation might not work. We don't know because (interrupted)

Chair Templeton: Right, that's why if you have a checkpoint... if you bake in that checkpoint to know if it's working or not and they are in there. It's just... it's awkwardly phrased. I think it needs another round so.

Commissioner Lauing: Yeah, I'd be happy to look at new wording that maybe you can even try to draft. That'd be great.

Chair Templeton: I'll see if I can work that out tonight but I'm not so sure. Anyway, I appreciate the point that you're making about the community benefit and the moving forward together and I think Commissioner Summa also eloquently said that. So, just to explain it. I won't be supporting this specific motion, but I like the general idea of structuring this in a more positive way. Alright, who else has their hand up? Vice-Chair Roohparvar.

Vice-Chair Roohparvar: I agree with Chair Templeton. I do think that we should... well two things. First, I feel comfortable with there being a safety net baked in and so I don't have

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1 concerns on that end. I do agree with the sentiment Commissioner Lauing, but I think it should
2 be baked in like Chair Templeton is saying and having it phrased in a more positive way.

3
4 One question I did want to raise and wanted to get other Commissioners' thoughts on is to me
5 it seems like we have this issue with enrollment. And for me personally, I don't think there's a
6 problem with having 540 or however many students as long as there's no impact on the traffic
7 and that can be managed. That is what I hear loud and clear being the neighbor's primary
8 concern. So, what I was wondering, and I'd like to get other Commissioner's thoughts on this. Is
9 can we tie... to me it doesn't make sense like why are we tying the enrollment increase to
10 construction milestones? Why don't we tie it to traffic? Like, if you follow the TDM and we see
11 no problem here. Great, you get to hit the next enrollment. You get to increase 25 more. Ok,
12 blah blah blah, next milestone, we hit it, there has been no impact to traffic, or we follow the
13 TDM, or however, you want to phrase it. Pursuant to the current structure, let's increase the
14 enrollment cap there. That way it aligns everybody's interest together. You're getting the
15 enrollment increase that you want and at the same time, you're making sure that there's no
16 issues with parking... with traffic so you don't have to come back and punish people for that.
17 They just wouldn't get to go to the next enrollment cap. That way everybody is incentivized to
18 keep traffic down and you get your enrollment increase. What do people think about that?

19
20 Chair Templeton: I like that.

21
22 Vice-Chair Roohparvar: Tell me if you disagree. I'm kind of curious but it seems like it makes
23 sense to me. Am I missing something?

24
25 Chair Templeton: I think it's going to be hard for people to jump in. Let's go back to
26 Commissioner Lauing, Summa, and Alcheck and just hear some feedback on that. I like what
27 you suggested.

28
29 Commissioner Lauing: Well Commissioner Roohparvar [note – Vice-Chair Roohparvar] what
30 you said is exactly what Commissioner Riggs said last week, and it's absolutely mathematically
31 correct. That as long as there's no traffic spillover then we should be solving for the TDM. Not
32 for the enrollment, but the reason I'm coming back with obviously a big objection here is
33 because the enrollment is the reason why there's risk and why the TDM might not work. And as
34 Commissioner Summa added, that applies to events, not just daily traffic. So, I don't think that
35 it's penalizing the school at this point to give them 450 instead of none for example, or tell
36 them to move which I don't want to do. And I don't think that extra 90 students is going to take
37 that long to get to if they just go ahead and perform and build neighborhood trust. So, I agree
38 with the thing conceptually but to me that sort of academic because it doesn't cover all of the
39 problems that could happen.

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1 Chair Templeton: Commissioner Summa, did you have a comment?
2

3 Commissioner Summa: Yes, thank you. Also, I think we need to take in and consider things that
4 the EIR couldn't take into consideration which is what we expect some of the future traffic
5 conditions to be in this area and pre-COVID, the traffic on Embarcadero was insanely bad. We
6 were getting people driving in the opposite lanes during peak hour. There's likely going to be a
7 closure at... of the... at Churchill. All these things are going to impact and it's really enrollment
8 that drives it. And I recall very early on when I was on the Planning Commission another private
9 school wanted to expand. They were either adjacent to or in R1 and they wanted to expand to
10 create a better facility for their students. And they didn't increase enrollment at all and it didn't
11 get a single concerned neighbor. Not a single objection and that was because... so I think that's
12 what we're looking for here. Something... it's a conditional use because it's a use that is not the
13 common use in that zone and the reason we have this kind of hearing for it is so that we can
14 put restraints and restrictions on the conditional use so that everybody is comfortable with it.
15 And I do not think it is an overwhelming problem for Castilleja to come back in 3-years or
16 something and say look, this has been going so well. Can we have more students? I just don't
17 think that's an onerous task. I think just giving it to them right off the bat is what is going to
18 create a feeling of unfairness. And I do think it will impact more than just how many students
19 are on the property and this is already a very dense school. I don't remember all the numbers
20 but it's a very small site with a fair number of students and all the teachers and other
21 professionals who are working there. So, I think we want to make sure that Castilleja can stay
22 there and do their job which they've done for over 100-years really successfully. So, I just don't
23 feel we need to jump to that higher number from the get-go.

24
25 Chair Templeton: Thank you, Commissioner Summa. Commissioner Alcheck, did you have
26 comments?
27

28 Commissioner Alcheck: So, I'll start big picture. I don't read the articulation of the growth
29 process in this Packet as negative versus positive. I think what would be the purpose of any
30 TDM Measure if they don't have an enrollment increase? Just a hypothetical question. Why
31 would we even have a single reporting requirement if we didn't consider an enrollment
32 increase? Surely, remodeling their structures doesn't immediately create concern that they
33 should be monitored on all fronts for impacts on traffic. So, there's some circular logic here that
34 I think I... let me put it to you this way. There may be reasons to support requiring a school to
35 come back for a second CUP as Commissioner Lauing is suggesting. I don't think those reasons
36 have been articulated yet.
37

38 I'll say this, for traffic to return to its pre-COVID, that should have no impact on whether or not
39 you would consider an enrollment increase if the condition of the enrollment increase is no
40 new net trips. I think we've... I think the transportation work on this particular application is

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1 very robust and is there a better way to write that paragraph so that it aligns the growth with
2 meeting goals as opposed to growth that could be suspended if goals aren't met? That's, in my
3 opinion, a complete syntax issue, and I could still recommend approval of this condition with
4 the knowledge and confidence that Staff could potentially address the syntax there as they
5 move this forward.

6
7 I think one of the other issues that I would suggest is a problem here is... well, look, like I said, I
8 think there could be reasons. I don't think... I'll just address some of the ones that were given. I
9 don't think the density argument is a good one. If you take out the fields that makeup 80
10 percent of some of the other schools that are in R1 Districts then we're not talking about
11 density. We shouldn't be looking at the total acreage and say this is not a reason to allow them
12 to have an extra percentage of students in their classroom. They're clearly proposing to build
13 the infrastructure to house these students.

14
15 So, I feel like... and then the other thing I will say is I'm... the two meetings I think my...one of
16 the biggest takeaways I've had and maybe there are people listening that are thinking this too is
17 this is not a neighbor verses Castilleja thing. There is no clear consensus amongst the neighbors
18 about the impacts here and so I want to just encourage us to not assume that the neighbors
19 speak in one voice. Particularly, because we heard so many of them disagree with each other.
20 And so, I... the sentiment of finding a way to get a project here that everyone can get behind of
21 course is one I support.

22
23 I don't share the view that there isn't a safety net. My read here is very different. I think this is
24 all about a safety net. The whole concept of monitoring and we took it up an extra notch, right?
25 We were like this monitoring needs to be digital and I can't remember the wording we used last
26 time, but it was Billy's [note – Commissioner Riggs] suggestion for some very specific hardware
27 that would be involved. And I read the Fehr and Peers' letter that we received this week to that
28 suggests that this would be like a new standard and a quite expensive undertaking. Which
29 brings me back to this idea that it just feels like an endless number of hurdles that we keep
30 putting up for a local institution to essentially attempt to improve upon its mission.

31
32 So, I'm still waiting to hear an argument that suggests otherwise, and I don't want to disregard
33 what Commissioner Roohparvar [note – Vice-Chair Roohparvar] suggested. I think the way we
34 say things is important and I actually liked what you said, but I don't know if technically it
35 dramatically changes the effect and considering the context and the history. I'm uninclined to
36 bring this back to a fifth meeting or I don't know what this one is now.

37
38 Chair Templeton: Thank you, Commissioner Alcheck. Alright, let's move onto Commissioner
39 Hechtman. Did you have comments on this motion? I saw your hand up.

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1 Commissioner Hechtman: Yes, thank you. Sorry. I will not be supporting the motion and I want
2 to start really by focusing on the human aspect of this. I know it's not lost on any of us that this
3 has been a terribly divisive issue for this neighborhood for five years. We have received
4 comments in support and opposition from people who live next door to each other, over and
5 over and over again, and I think part of the stress of this situation is the not knowing how it's
6 going to turn out. And one of, I think, our most important functions on the PTC supporting the
7 Council is to help the Council make a decision that is decisive so that people can then start to
8 accept that the decision has been made and adjust their thinking or just get on with it. And to
9 me, the concept that Castilleja... we might do something here as a body that would result in
10 Castilleja coming back and I heard Commissioner Summa say 3-years. I think it would be 2-years
11 or even 1-year and I'll explain why in a minute. To have them come back in a year or 2-years to
12 ask for more is going to invite the same divisiveness all over again and I think that would be a
13 disservice to our community. So, if there are Commissioners that think 450 is a right number,
14 then I suggest you be resolved that that is the permanent right number in your mind. I don't
15 believe that at all and so that's the first point is that human aspect. I think a use permit is really
16 designed... its why they're not time-limited. They're designed to carry on indefinitely and set
17 the structure and to really set something up that has to come back here in a couple of years
18 makes no sense to me.

19
20 So, the second point is I'm a little perplexed because the maker of the motion and the seconder
21 of this motion are two of the Commissioners who at our last meeting voted to alter Condition
22 22 so that there's no net traffic increase. And I was not supportive of that, but the effect of the
23 majority decision there is there can't be a traffic impact. There can't be and our Mitigation
24 Measures are set up to ensure that. And so, it's perplexing having eliminated the possibility of a
25 traffic impact to now limit the enrollment which cannot definitionally have a traffic impact.

26
27 Commissioner Lauing: No.

28
29 Commissioner Hechtman: And I think... I was trying to kind of figure out the math and walk
30 through this and so let me just kind of share this with you. The way that Condition 4 works with
31 Mitigation Measure 7a is first of all they're 426 now. As I understand it, they can't increase their
32 enrollment beyond 426 until the school year after they finish Phase One which is the
33 underground garage. So, they finish the underground garage and then they can go... they can
34 increase by 25 under current Mitigation Measure 4 to 451. So, let's pause right there because
35 under the current motion they can't even get there. They're capped at 450 and they're done.
36 That's it. The first enrollment bump maxes them out which is why I think after they do what, 2-
37 years of testing and showing or two... sorry, it's three tests per year during the construction
38 stage. I think they're back in a year asking for more because they're building for a campus of
39 540 students. So, I... that makes no sense to me.

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1 Now, and the way we have it structured which I like, is every year they can increase by 25 up to
2 490. So, that's really from 451, they go to 476, and then the next year they only get 14 right
3 because that gets them to 490 before they build the building, and then they can increase from
4 490. It would take them 2-years at 25 to get to 540. So, that's five years under the best of
5 circumstances after they finish the garage which is at least a year or two from now. And at
6 every step of the way, they get stuck under the current version of Condition 22 if they have any
7 net increase in traffic. So, I think the safety net is fantastic. I mean I think it's foolproof and it's
8 that way because it's been labored over by so many consultants for so many years to get it
9 right. People with a lot more expertise than I have.

10

11 And then the final thing I want to touch on is the concept that Chair Templeton voiced and
12 Vice-Chair Roohparvar was supportive of. The concept that let's turn it slightly so that you have
13 some enrollment, you show your numbers, no net increase under Condition 22, and then you
14 can bump up again. While conceptually I like that, what I'm wondering is how that works in
15 practice with the school enrollment and whether does that create essentially a 1-year pause
16 between every... they can really only increase every other year because they have to wait for
17 the results of this year and by the time they get the results of this year and they're fine, they're
18 already in next year, or it's... I mean I think that the enrollment for these schools to start in
19 September I think is done by March, if not earlier. And so, I'm wondering if we are... we would
20 unknowingly be building in a lag (interrupted)

21

22 Chair Templeton: Let's hold that thought until a motion like that is made. I think you're making
23 good points, but I think we're getting close to being able to vote on this. Is there anything else?

24

25 Commissioner Hechtman: No, so those are the three concepts that I had, and I think this is a
26 really good and important discussion and I appreciate the motion even though I can't support it
27 because I think it's important for us to talk about these things. Thank you.

28

29 Chair Templeton: Thank you, Commissioner Hechtman. Commissioner Lauing, I heard that you
30 had a comment. If you can keep it brief and then we can go to voting on this.

31

32 Commissioner Lauing: Yeah, no, I'm not trying to convert people who don't like this concept,
33 but I do want to clarify. To Commissioner Alcheck, the first thing you said is that why would we
34 be doing a TDM if we're not doing an enrollment increase? Well, under 450 students, we're an
35 enrollment increase of 25 immediately. So, that's why there's a TDM so that was kind of an odd
36 comment. I mean it is a TDM in order to make sure that the 25 don't ever go bad.

37

38 And I think that the comments on the various neighbors bring up an important point that I want
39 to talk about which is that this is not a vote of the neighbors. We're not going to have a ballot

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1 box. We just need to listen and see what the issues are and come up with a solution that is
2 suitable in the issue of a CUP. Well, we're in charge of that and it's a privilege.

3
4 The issue about divisiveness for 5-years is well taken and I spoke on that... to that a couple of
5 times before Commissioner Hechtman. I just think it a sad state of affairs that we've gotten
6 there and I think there should have been interim moves but I'm not going to go there. I don't
7 think that if all that they want to do after building this at some point in the future is add
8 another 20 students. I don't think that will be disruptive or divisive because then they will have
9 proved it and they will have earned the privilege of going higher which is part of what I'm trying
10 to build in here. Somebody's talking and I think that they won't be back quickly for a new CUP
11 specifically because of the need for that much construction. So, my point is quite simple that
12 we don't know if they can successfully get to 450. They don't even. They are very committed to
13 doing it and I appreciate that, but we will see that first before we reward them.

14
15 Chair Templeton: Thank you, Commissioner Lauing. I see other hands up. If those are historic
16 hands up if you could please put those down and only keep your hand up if you need to speak
17 before we vote. Commissioner Lauing, do you have more? Ok. Commissioner Summa, do you
18 want to address this motion before we vote?

19
20 Commissioner Summa: Yes, just briefly because I don't think we're going to come to agreement
21 amongst all of us here. I would like to say that the conditional use is the school use which they
22 have for as long as they want, but the conditions of how that... the specific conditions in the
23 enrollment and the number of events and traffic were the three that were of most concern to
24 people. So, I do think it is relevant and I would also like to point out that this enrollment... the
25 enrollment has been violated for years. They're in violation right now. Well, not COVID but and
26 so to me it isn't a big deal to come back and ask for a change in enrollment. And they have
27 violated their agreement with the City and the neighbors for years and have not been very
28 mindful of it. 426, if they come back when the garage is done in Phase One with 426, they'll
29 be... this current CUP says 415. So, I think that it shows goodwill to the people that are
30 concerned and I think it's reasonable to assume on this site that there is not... maybe there's a
31 magic number for the Castilleja people because of their business plan or something like that,
32 but that's not really what we're crafting here. We're trying to craft a successful way for this
33 school to stay here and move forward in a way that everybody's comfortable with. And I do not
34 think that there's anything wrong with keeping the limit a little lower to start and I think it
35 would do a lot to create goodwill.

36
37 VOTE

38

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1 Chair Templeton: Alright, thank you very much. Mr. Nguyen, would you like to conduct a vote?
2 Just a reminder this is Commissioner Lauing, seconded by Commissioner Summa to change the
3 enrollment cap on Condition 4 to 450. Does that correctly capture the motion?
4
5 Commissioner Lauing: Yes.
6
7 Chair Templeton: Great. Mr. Nguyen?
8
9 Mr. Nguyen: Ok, yes. Commissioner Alcheck?
10
11 Commissioner Alcheck: No.
12
13 Mr. Nguyen: Commissioner Hechtman?
14
15 Commissioner Hechtman: No.
16
17 Mr. Nguyen: Commissioner Lauing?
18
19 Commissioner Lauing: Yes.
20
21 Mr. Nguyen: Commissioner Riggs is absent. Vice-Chair Roohparvar?
22
23 Vice-Chair Roohparvar: No.
24
25 Mr. Nguyen: Commissioner Summa?
26
27 Commissioner Summa: Yes.
28
29 Mr. Nguyen: Chair Templeton?
30
31 Chair Templeton: No.
32
33 Mr. Nguyen: Ok, the motion does not carry.
34
35 MOTION #4 FAILED 2(Lauing, Summa)- 4(Alcheck, Hechtman, Roohparvar, Templeton)-1 (Riggs
36 absent)
37
38 Chair Templeton: Alright, thank you. That was a really good and thorough discussion. I
39 (interrupted)
40

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1 Ms. Tanner: Did Chair Templeton freeze? Ok.

2

3 Vice-Chair Roohparvar: She might have dropped off.

4

5 Ms. Tanner: I was like she's leaving us all waiting for what sounds (interrupted)

6

7 Chair Templeton: Sorry you guys. A little internet hiccup there. I was going to suggest that
8 we've been here for 2-hours and a quarter and it might be time for a 5-minute break. Does
9 anyone object to that? Alright, we'll be back at 8:21. Thank you very much.

10

11 [The Commission took a short break]

12

13 Chair Templeton: Alright, hi everybody. Welcome back. Just a quick process note here. My
14 internet seems to be a little bit unstable tonight so if I do drop off, it usually reconnects in like
15 under 60-seconds. If we're in the middle of a vote please, otherwise Vice-Chair Roohparvar can
16 continue until I can rejoin.

17

18 Commissioner Alcheck: I just want you to know, that's what we would do. We wouldn't vote
19 without you.

20

21 Chair Templeton: Appreciate that. Ok, so we're waiting for a few more Commissioners to come
22 back online and then we can (interrupted)

23

24 Commissioner Alcheck: Alright, what's the significance of the posters behind you? Is that a
25 family portrait behind you? Is that what that is? I can't hear you.

26

27 Commissioner Hechtman: Family portrait, southwest art, and then the one in the corner is from
28 Thailand for what Carrie and I called our preconception tour before we started having kids.

29

30 Commissioner Alcheck: Nice. Nice.

31

32 Chair Templeton: On that note, we're still broadcasting so.

33

34 Commissioner Alcheck: I don't think we are yet.

35

36 Chair Templeton: I don't know. It says live.

37

38 Commissioner Alcheck: Oh, does it? Sorry.

39

-
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1 Chair Templeton: So, ok so we're still waiting for a couple more people to rejoin, and let me just
2 see if anybody's still got their hands up. It doesn't look like it. So, once we have everybody here
3 and you can raise your hands if you haven't had a first-round yet to make additional comments.

4
5 Commissioner Alcheck: Can I ask you just a quick question?

6
7 Chair Templeton: Yes.

8
9 Commissioner Alcheck: So, Commissioner Hechtman mentioned that he wanted to do a few
10 motions regarding different conditions and then he said he would look forward to another
11 motion that would essentially adopt all the other conditions as they are. And I would... I think it
12 would help if you could just clarify because my understanding was that the motion we made
13 last time essentially adopted all the conditions as they were with the following adjustments and
14 left it open to other adjustments to be made.

15
16 Chair Templeton: So, we may not need that final (interrupted)

17
18 Commissioner Alcheck: So, we wouldn't need another step of having to... it would... I think it
19 would help if Staff could just tell us if that's how they see it. And if they do then we could not
20 have to go through the process of again moving any of the conditions we didn't specifically
21 have a conversation about.

22
23 Chair Templeton: That's a great point. Assistant Director Tanner?

24
25 Ms. Tanner: Yes, I'm going to ask if Ms. French has returned from the break and she did have a
26 slide that had that language that was from the motion in greater detail. Perhaps now would be
27 a time to just show that so everyone can see it and then we can go forward. I did want to offer
28 that Staff has been noodling the discussion as the sessions has gone on. If there is interest in
29 hearing about ways to address some of the concerns the Commissioners have raised, Director
30 Lait can do that. Amy, do you mind bringing up that slide?

31
32 Commissioner Alcheck: Also, I didn't hear you (interrupted)

33
34 Ms. French: I do not.

35
36 Commissioner Alcheck: Is it... was... is your impression the impression I had or?

37
38 Chair Templeton: She's going to confirm that with the notes that Ms. French has from our
39 motions.

40

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1 Ms. Tanner: I think there may be a pocket slide that has a longer narrative of the motion.

2

3 Ms. French: That was removed from the slide so basically there was a Motion Number 2 that
4 was made that included all of the Staff conditions with the following changes. Then that was
5 Alcheck who then made a motion... withdrew the Motion 2 and made Motion 3 that had this
6 non-exclusive list of changes. That's how Attorney Yang heard it.

7

8 Commissioner Alcheck: So just to be clear because my question is, is it your understanding that
9 my motion essentially, it moved all the conditions subject to the following exceptions like
10 spelled out and any future exceptions pasted; or is it only a motion to the specific items that we
11 discussed and specified meaning that we would also need to move tonight that any conditions
12 that we didn't specifically discuss are approved as written?

13

14 Ms. French: My understanding was because you withdrew Motion Number 2 and instead made
15 Motion 3, it was just focused on these particular, non-exclusive list of changes.

16

17 Commissioner Alcheck: I thought when we said... that's fine, that's fine because it's not a
18 terribly onerous task to do another motion, but I'll just say that I thought when I said non-
19 exclusive, we were saying that the motion's specific... the adjustments to further conditions
20 could still continue to amend that motion if you will. I don't know if that's an accurate
21 statement but that's actually, conceptually now that I'm saying it out loud, very confusing. So, if
22 it would help, once you're done with your first round, I'd be happy to make a motion that
23 essentially got us to that place where we... the motions that we haven't felt necessary to nitpick
24 and we can just as a group add to the list of motions that we... recommendations... conditions
25 that we recommend.

26

27 Chair Templeton: Thank you for bringing that point up and for clearing it up Assistant Director
28 Tanner and Ms. French. Assistant Director, I'm wondering if you wanted to speak to... you had
29 some thoughts that you shared that maybe we could make some adjustments. Do you want to
30 share those now, or do you want to share those later?

31

32 Ms. Tanner: Certainly, we can share those now. I'll turn it over to Director Jonathan Lait and
33 just kind of the idea to try to meet some of the ideas that were in the discussion that the
34 Commission just had. Mr. Lait?

35

36 Mr. Jonathan Lait, Planning Director: Thank you, Ms. Tanner. Good evening Commissioners,
37 Chair Templeton, Planning Commissioners. So, I... we offer this just as an opportunity to sort of
38 maybe meet the different perspectives in the middle. We can appreciate that there's a little bit
39 of an awkwardness about granting an increase in enrollment; and how you whittle that back
40 over time depending on the number of violations that may happen, and understanding some of

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1 the concerns about some of the trust concerns that we've heard mentioned this evening and
2 from the community before. So, similar to the... so, the thought is that continuing with the
3 same concept that we have drafted in your Packet. Enrollment would stay at 426 until
4 completion of the garage.

5
6 And the reason we tie it to construction, to address an earlier comment, is because that's just
7 when there's more capacity to be able to accommodate more students on the property. And
8 so, the completion of the garage is an important milestone that we think needs to stay, or
9 that's why we've tied that to enrollment.

10
11 So, once the garage is completed, enrollment would be able to increase up to 25 students as it
12 is currently written, but it would be predicated or conditioned on the successful completion of
13 three of the AM Peak... the TDM Monitoring Reports; AM Peak and ADT. And if you have three
14 consecutive reports then you... the school would be allowed to increase enrollment by 25
15 students. Now, this works up to a point. You would get up to the 490 and then after complete
16 constructions and removal of the modular buildings. Again, it would be the same thing, every
17 year being able to increase up to 25 students. Provided that you had three previous clear TDM
18 Monitoring Reports with respect to AM Peak and ADT.

19
20 Commissioner Hechtman noted and we agree that if you rely on the reporting for the same
21 academic year in which was the enrollment increased. It would effectively result in a delay of a
22 year. Each successive year before the school would be able to move on to increase enrollment.
23 So, alternatively, we still think having the history of three consecutive reports is important, but
24 we would rely on two prior reports from the... what would then be the previous academic year,
25 the most recent, and then at least one of the three reports has to be in the current academic
26 year at monitoring at the higher enrollment rate. So, this gets a little complicated to explain but
27 the idea is that we still have three reports. Two of them would be from the previous year, one
28 of them would be from the current academic year. The same year that they would send their
29 acceptance letters out to the incoming class and so you'd still... and if they were all clear. If they
30 met the standard, then the incoming class can increase by 25 students, or however, they're
31 going to increase their enrollment. Same thing would repeat every year and each one relies on
32 a collection of data showing progress, or not just progress, but showing consistent compliance
33 with those measures. And anyone violation of those AM Peak or ADT means that that's
34 suspended until we can collect three more years of good data.

35
36 I'll note that there's a condition, I think it's 29, that still would allow the City to reduce
37 enrollment if there were other violations, but I wouldn't want the expectation to be if there's
38 an infraction of one of the conditions. That automatically means the enrollment is suspended. I
39 think that the penalty has to fit the violation. So, anyway, I apologize if that muddies the water.
40 Just trying to see (interrupted)

-
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Chair Templeton: No, that's very helpful.

Mr. Lait: Ok and then I'll just offer to Staff, if I got any of that inconsistent with your thoughts feel free to chime in, but that's an option for the Commission to consider.

Chair Templeton: And my assumption here is that if we... the Commission would ask Staff to do that. That we would make a motion for that or is that the right way to do it? Ok.

Ms. Lait: Yes, and I think if there's understanding on what I've articulated. I think that's something that we could draft and in and of itself wouldn't necessarily need to come back to the Commission, provided you understand what I said.

Chair Templeton: Provided that. Well, then I would suggest Commissioner Roohparvar [note – Vice-Chair Roohparvar] was the one who brought this up. Do you want to respond, or question, or make a motion around what Director Lait just shared?

Vice-Chair Roohparvar: Yeah, that all makes sense I mean I don't know how to make the motion but I'm in agreement and I hope that we can build in that clarification.

Chair Templeton: What he said maybe?

MOTION #5

Vice-Chair Roohparvar: I don't think it needs to come back to us. I perfectly understood it. That that clarification was extremely helpful. So, can... do I make a motion to have Staff clarify (interrupted)

Chair Templeton: Along the lines of [unintelligible](interrupted)

Vice-Chair Roohparvar: Along the lines... thank you. Along the lines of what... thank you... Director Lait and it does not need to come back to us.

SECOND

Chair Templeton: I will second that motion if it's deemed sufficient. Any objections on the part of Mr. Yang, please speak up now? And then I see that we have some comment from Commissioner Alcheck and Commissioner Hechtman, but first Mr. Yang.

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1 Mr. Yang: Yeah, I think just for clarity of the record I'd like to just try to [unintelligible] restate
2 what the motion would be. And (interrupted)

3
4 Chair Templeton: Director Lait, can you help us with that?

5
6 Ms. Tanner: Would you like Jonathan to do that, or do you want to do that?

7
8 Mr. Yang: I'll take a shot at it.

9
10 Vice-Chair Roohparvar: Yes please, thank you.

11
12 Ms. Tanner: Ok.

13
14 MOTION #5 RESTATED

15
16 Mr. Yang: And so, I think it is essentially maintaining Condition of Approval 4 as it's currently
17 stated, but adding a provision that no enrollment increase may occur unless the school has
18 achieved the Performance Standards in Condition 22, which is the ADT and the AM Peak
19 Standards, for the proceeding three consecutive reporting periods.

20
21 Chair Templeton: Alright, Director Lait had some complicated words around those reporting
22 periods. Do we need to clarify that, or is that.... are we good?

23
24 Mr. Yang: I think he was just explaining what the practical effect of that would be, but yeah.
25 That's not actually changing what we would be specifically requiring.

26
27 Vice-Chair Roohparvar: So, there would be no delay, right? I just want to make sure that that's...
28 there would be no delay like the issue Commissioner Hechtman raised because I'm not trying to
29 create a problem. I just (interrupted)

30
31 Mr. Yang: Correct.

32
33 Vice-Chair Roohparvar: Ok.

34
35 Mr. Yang: Yeah, as Director Lait explained, this would [unintelligible – crosstalk] using some
36 data from a previous year, some data from a current year, but that would... it would not
37 develop into a delay.

38
39 Vice-Chair Roohparvar: Ok, that's what I understood. Thank you.

40

-
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1 Chair Templeton: Excellent. I'm looking forward to some more robust discussion. I see
2 Commissioners Alcheck, Hechtman, Lauing, and Summa in that order. So, Commissioner
3 Alcheck?

4

5 FRIENDLY AMENDMENT

6

7 Commissioner Alcheck: I imagine that my comment will... I'd like to think that Commissioner
8 Hechtman probably is thinking the same thing I am, but I don't see that there'd be any harm in
9 being a little bit more specific. So, maybe you're suggesting a language and that the
10 determination essentially would occur that the conclusion of a calendar year in advance of the
11 upcoming academic year. And so, when you say proceeding three reports, you're actually
12 talking about the first report of the... report number one from the current academic year and
13 reports two and three from the proceeding academic year. So, my theory is that a little more
14 precision here might help.

15

16 I really don't... my... the question I had when Director Lait was speaking was is this different
17 than how you were going to do it anyway? Because I just... hearing you say it made me think
18 that this was already the plan and because it sounds like the only feasible way to actually
19 achieve the implementation. So, is... did you just come up with this on the fly, or is this sort of
20 what you guys were already thinking you were going to do?

21

22 Mr. Lait: So, the... Chair, if I may respond? The way that the language was written originally
23 was... we didn't start rolling back enrollment until one, it was already achieved and then
24 enrollment is incremental because we didn't want... we... how the incoming class gets reduced
25 by a large number could be problematic for the school as we understood it. So, the conditions
26 that are in your Packet has this really incremental approach where you pull back five students
27 each year until you get compliance with the ADT. And so, the revised method that we just
28 offered sort of as we were hearing the conversation unfold, gets to what I believe
29 Commissioner Lauing was talking about where it's you get your enrollment, but you kind of
30 show to the community that you can increase by meeting these standards. And it wasn't
31 precisely like Commissioner Lauing was saying but I mean that's where we were trying to bridge
32 it. So, no, it wasn't always our plan from the get-go, but we've sort of present this in response
33 to the dialog we've been hearing.

34

35 Commissioner Alcheck: So, for the purpose of just being more specific since I think that that
36 sort of specificity I think will essential... assist everyone involved including the applicant and the
37 community. Is it... am I understanding you correctly that you would essentially pull reports
38 before the conclusion of a calendar year in anticipation of the next academic year? So, you had
39 suggested that letters of admission would go out in March, or maybe that was someone else,
40 and so the idea is that you would want to know can we admit 25 more students before March

-
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1 and so that you would have to conclude that analysis early enough to facilitate that. So, instead
2 of the language as the City Attorney said which was just the proceeding three reports. I think it
3 would be probably best if we could just create... I think it would probably be best if we could
4 create a little bit more specificity about the timing. So, that the objective can be met and also
5 facilitate proper planning because if for example, that analysis isn't concluded until April. Then
6 it has not really sufficiently provided the school with the opportunity to benefit from the work
7 they've done.

8
9 Mr. Lait: So, right, so the way that you expressed the reporting Commissioner Alcheck is what
10 we had in mind. So, as I'm looking at Condition Number 23 in your Packet, I think it's Packet
11 Page 37 on the October online version. There're three reporting periods; January 15, May 15,
12 and September 15. So, if... so, the idea is we need to get the answer to Castilleja, or they need
13 to know right if they can increase their enrollment before acceptance letters go out and that
14 typically happens around mid-March is my understanding. So, we would know by then whether
15 or not the January 15 report was accurate, or showed a lower AM Peak, or compliant AM Peak
16 and ADT. And then we would look at the proceeding academic year report for September 15
17 and May 15. So, [unintelligible](interrupted)

18
19 Commissioner Alcheck: Actually, I think it's... I think... hold on a second because now you've
20 confused me. It sounded like you had said initially that you would take one from the current
21 year and two from the proceeding year. However (interrupted)

22
23 Mr. Lait: That would be September [unintelligible](interrupted)

24
25 Commissioner Alcheck: However, if you start with the January 15 one incorporated into your
26 analysis. Then the September 15th one would be in the same academic year and only the May
27 15th one would be the proceeding year. So, if you make your conclusion after... so, I'm just
28 trying to get clarity here.

29
30 Mr. Lait: So, again, I think it's (interrupted)

31
32 Chair Templeton: I can help I think.

33
34 Mr. Lait: [unintelligible]

35
36 Commissioner Alcheck: Ok, that'd be helpful.

37
38 Chair Templeton: We need to specify which year, is it a calendar year or an academic year? I
39 think that will clear it up.

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1 Mr. Yang: So, I think I understand Commissioner Alcheck's point about specifying when the
2 determination is going to be made and based on which reports from which academic year. And
3 I think that is something we can incorporate into this condition.

4
5 Commissioner Alcheck: That's always my favorite approach to articulating motions.

6
7 Chair Templeton: Thank you, Commissioner Alcheck. Vice-Chair Roohparvar, do you accept?

8
9 Vice-Chair Roohparvar: Yes.

10
11 Chair Templeton: Alright, as seconder I also accept. Ok, Commissioner Hechtman.

12
13 Commissioner Hechtman: Thank you. So, I am supportive of this concept but I still am not
14 understanding how it works for a possible increase every year and so I'd just like to walk
15 through a hypothetical, and people can point out where I'm going astray. So, if we assume for
16 example that the CUP is approved and that the garage is built in time for them to increase
17 enrollment for, I'm just going to say, academic year 2024-2025. So, they do that. They add 25
18 students, they're at 451 enrollment, and there will be measurements taken... reports due
19 September 15th and then January 15th of that year. So, there will only be two and so it seems to
20 me that under this scenario it's not clear to me that once the January 15th is turned in, which is
21 only the second report at the increased enrollment, that they would have a green light to
22 increase enrollment for the 2025 to 2026 calendar year. Instead, they'd have to wait a year for
23 that increase and so can somebody show me that it actually does work so that they could
24 increase every year which is what the current Conditions of Approval contemplate.

25
26 Mr. Yang: So, I'll just take a stab at that very quickly. If you look at that Condition, 23, actually
27 only the January 15th report would be from that 2024-2025 academic year. That September 15th
28 report would be coming from the end of the 2023-2024 academic year and that's what this
29 Staff proposal would use. It would use one report with an increased enrollment and two reports
30 from the previous enrollment and the following year you'd had the same situation. You'd have
31 one report with increased enrollment from the current academic and two reports from the
32 previous year where maybe it was also increased enrollment from the year before. And these
33 reports actually are due immediately. You know, even before there's any increase in the
34 enrollment they're going to be providing these reports to us. So, we'll have at least three
35 consecutive reports, one of which will be with an increased enrollment on which to rely.

36
37 Commissioner Hechtman: I get it now. Thank you.

38
39 Commissioner Alcheck: Hey, can I ask one more question Chair Templeton?

40

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1 Chair Templeton: Would you be alright if you wait for the other people to ask, or is it specific to
2 this comment?

3
4 Commissioner Alcheck: Oh, yeah, it was just specific to what Attorney... City Attorney
5 (interrupted)

6
7 Chair Templeton: Oh, go ahead then, go ahead then.

8
9 Commissioner Alcheck: If you're... let's say they... in this hypothetical, they increase by 20...
10 they do their first increase. The first relevant report would be January 15th. There would be a
11 second increase at the time that the September 15th report was conducted, so the September
12 15th report would hold them to the standard of... it would essentially be evaluating a second
13 increase even though in your... the way you just described it, it pertains to a previous year. And
14 so, I just... it shouldn't really change anything because it's a no net trips, but I just wanted to
15 sort of suggest that it doesn't really make a difference what calendar year, what academic year.
16 However, many reports you have available you could theoretically use because it's... they're... it
17 continues to be no net new trips, right? So, it's basically every report it could be for 25
18 students, it could be for 100 students. It has to have the same conclusion. It doesn't really make
19 a difference if it applies to a small increase or a second increase because it provides the same
20 information. Is that right?

21
22 Mr. Yang: I'm not sure I entirely understand the question.

23
24 Commissioner Alcheck: When you get your September 15th report, if you base the second
25 increase off the January report from the previous year, then the September 15th report takes
26 place in a year when there's two increases. Two... there have been two increases and I don't
27 think that should change anything because the result of the report still has to still meet this
28 threshold, but I'm just making that point that you're using a report from September 15th but it's
29 not solely evidence of what occurred after one increase of enrollment. It actually demonstrates
30 performance after two increases of enrollment because the enrollment occurs prior to
31 September 15th presumably.

32
33 Mr. Yang: Well, so I think understand what you're expressing but I don't think it's correct
34 because although the enrollment letters go out in March. They're not effective until next
35 August and although the report comes in on September 15th, the data that's presented in that
36 report is from April to July of the previous (interrupted)

37
38 Commissioner Alcheck: Oh, ok. In that case, thank you for making that clarification. I was a little
39 confused. I appreciate it.

40

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1 Chair Templeton: Thank you, Commissioner Alcheck. Commissioner Lauing, you had your hand
2 up. Do you still want to speak? No? Ok. Commissioner Summa.

3
4 Commissioner Summa: So, are we changing 23, or are we... Condition 23, or are we adding
5 language to Condition 4? This has gotten kind of confusing.

6
7 Mr. Lait: So, Condition 3 was a reference. That was only a reference. We are not proposing any
8 change to Condition 3.

9
10 Commissioner Summa: 23?

11
12 Commissioner Hechtman: 23.

13
14 Mr. Lait: Right, yeah, no changes proposed to Condition Number 23. Condition 4 would change.
15 Let's see, yeah, Condition 4 would change.

16
17 Commissioner Summa: I actually think this is very confusing and I'm not sure we want to go in
18 the direction of making on-the-fly changes that don't clarify but actually confuse it. It's really
19 kind of confusing and if there's no net new trips. What would the T... if there's truly no net new
20 trips, what would the TDM reports show?

21
22 Mr. Lait: They would show that the school's in compliance with the ADM. ADM? ADT, Average
23 Daily Trips, and AM Peak driveway counter threshold and as long as they continue to meet
24 those thresholds. That's what we're looking for in those reports.

25
26 Commissioner Summa: Ok.

27
28 Mr. Lait: And to your other point, it's up to the Commission. I mean we're happy to do
29 whatever the Commission wants us to do in terms of the language. I think we have an
30 understanding of it. It's just a whether... a matter of whether the Commission feels like there's
31 sufficient understanding and how you want to address that as this moves onto the Council. So,
32 we're happy to follow your lead on that.

33
34 Commissioner Summa: Ok, well if this is going to... if any aspect of this is going to come back to
35 us. I would request that this specific language come back to us, but only if we don't finish with
36 this tonight because I think it's confusing.

37
38 Chair Templeton: Thank you, Commissioner Summa. And I realized I never spoke to my second
39 and I may address some of the questions that came up that you also brought up. I think that the
40 intention of this motion is to clarify forward progress together. That the school would be

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1 allowed to increase the enrollment while synonymously proving that they're meeting their
2 transportation agreement and so I think that adds clarity. It is confusing because we don't have
3 it written out so I recognize and appreciate your desire to see it fully written out. And we can
4 come back to that and ask Staff later at some point if we agree to bring it back with all these
5 motions included. So, that may be something for you to consider. I would also suggest that I
6 think this is a really important clarification because it shows that Castilleja would be a good
7 neighbor. That the applicant would be a good neighbor and I think that that is really the crux of
8 all of these disagreements; is that we've had... we've seen problems with that in the past and
9 we've had, as one Commissioner mentioned, years of frustration and contention around this. I
10 think this is one of the ways that we can kind of get to the root of that and start to heal. So, I'm
11 really hopeful that we can find a way to agree on this. It's a language change, yes. Somebody
12 mentioned it was a syntax thing, but it's an important way to clarify the intention of this whole
13 plan is to say hey, you give and we give, and you give and we give. So, I really would... I do
14 appreciate the Director coming back with a proposed way to move this forward and I hope that
15 you will support it. Alright, Commissioner Hechtman is next.

16
17 Commissioner Hechtman: I was trying to scribble out a motion here to capture this and I've
18 almost got it. So, maybe I'll give it a try and then Staff can help. I'm not trying to change any of
19 the intent of what I just heard, but if I get it wrong I need some help.

20
21 Chair Templeton: Ok, hold on just a second. So, there is a motion and you are proposing
22 language for that motion, right? Because Commissioner... Vice-Chair Roohparvar already moved
23 what Mr. Yang had... he provided some phrasing, but I'm sure she would be willing to consider
24 your wording as well.

25
26 Commissioner Hechtman: No, that's unnecessary. I can I maybe just hear the motion that's on
27 the floor again?

28
29 Chair Templeton: Sure. Mr. Yang, are you able to read that back?

30
31 MOTION #5 RESTATED

32
33 Mr. Yang: Sure. It would be that student enrollment shall not increase unless the school has
34 achieved Performance Standards in Condition 22 for three consecutive reporting periods and
35 then we will be adding some clarifying language about which reporting periods those are and
36 on what date that termination will be made.

37
38 Chair Templeton: Thank you very much. Does that address your need, Commissioner
39 Hechtman?

40

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1 Commissioner Hechtman: I think so other than clarifying that the motion concerns Condition
2 Number 4.

3

4 Mr. Yang: Yes, this would be adding an additional provision to Condition 4.

5

6 VOTE

7

8 Chair Templeton: Great. Thank you. Ok, I don't see any more hands up. If you wish to speak to
9 this motion before we take a vote, please put your hand up now. Alright, Mr. Nguyen would
10 you please conduct the vote?

11

12 Mr. Nguyen: Commissioner Alcheck?

13

14 Commissioner Alcheck: Aye.

15

16 Mr. Nguyen: Commissioner Hechtman?

17

18 Commissioner Hechtman: Yes.

19

20 Mr. Nguyen: Commissioner Lauing?

21

22 Commissioner Lauing: No.

23

24 Mr. Nguyen: Commissioner Riggs is absent. Vice-Chair Roohparvar?

25

26 Vice-Chair Roohparvar: Yes.

27

28 Mr. Nguyen: Commissioner Summa?

29

30 Commissioner Summa: No.

31

32 Mr. Nguyen: Chair Templeton?

33

34 Chair Templeton: Yes.

35

36 Mr. Nguyen: Ok the motion carries 4-2-1.

37

38 MOTION #5 PASS 4(Alcheck, Hechtman, Roohparvar, Templeton)- 2(Lauing, Summa) -1(Riggs
39 absent)

40

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1 Chair Templeton: Thank you very much. Commissioner Lauing and Commissioner Summa,
2 would you like to speak to your no votes?

3
4 Commissioner Lauing: Yeah, very briefly. First, I don't like to vote on something that I haven't
5 seen in front of me, but second, I don't see that there's a substantive change in the way this
6 thing is moving. So, the language here doesn't meet sort of what you had said Ms. Templeton in
7 terms of how you think it should go so I don't think it went far enough. Thanks.

8
9 Chair Templeton: Thank you. Commissioner Summa?

10
11 Commissioner Summa: Pretty much the same. I think it would be better to have a language in
12 front of us and I don't think it's substantively different or better. So just... and I actually have a
13 strong desire to have the enrollment be capped lower so it was inconsistent with my general
14 feeling.

15
16 Chair Templeton: Thank you. Alright, thank you for the good discussion on that. So far, I think
17 every... Commissioner Summa, have you had a chance for your first round of comments and
18 motions?

19
20 Commissioner Summa: No, but that's ok. I don't need that. We can carry on, but I do have a
21 question and that is that we have already... events... the number of events is no longer on the
22 table because we voted on that. Is that correct?

23
24 Chair Templeton: That's my understanding, although we could reconsider it but it would have
25 to be somebody who supported it to make that motion.

26
27 Commissioner Summa: I wasn't suggesting that. I was just clarifying.

28
29 Chair Templeton: Sure.

30
31 Commissioner Summa: I did have an idea. I don't know if any of you, or all of you got to watch
32 any of the ARB hearings on this matter and they had a long conversation about construction
33 impacts and logistics. And there was a strong interest in having the school relocate during
34 construction so that it was not a phased process. And so, the girls and teachers and everybody
35 had better conditions for learning as opposed to being on a construction site and it would also
36 make the construction overall much quicker for everybody. And I'm not sure that I feel like I
37 should make... suggest this should be a Condition of Approval, but if any... if there was strong
38 interest in that. It would really keep the... it would really make the construction more efficient
39 and it would keep the girls from being in noisy and what I think are going to be very dusty and
40 particulate matter conditions.

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And there was also a couple of communications from the public regarding wanting more specific particle, air particle, measurements during construction. And I think one of the reasons I think that we're sensitive about that is because we've been through all these fires and have had all this exposure to particulate matter in the air. Is there any interest among my colleagues in pursuing any of those construction management ideas?

Chair Templeton: I see two hands up. I don't know if they were planning to go next, so I have captured those hands so if you don't want to speak to Commissioner Summa's topic. You can put your hand down and I will get to you. In the meantime, I would say I was really intrigued by one of the public comments today regarding construction safety. Specifically, around students maneuvering around the vehicles and I thought I'm particularly interested in what did the ARB say about that and did they already incorporate some requirements for this project around construction that Staff would like to share with us?

Ms. Tanner: I look to Ms. French to report on the ARB and some of the discussion that they had.

Ms. French: Yes, the ARB of course had Conditions... draft Conditions of Approval in front of them. I would need some time to pull those up to share those. There was not a recommendation of the Board to not have the girls on the campus while under construction. So, I don't think that would be characterized as any kind of majority interest on the part of the ARB. I was going to look through and see if there was any motion related to construction. I don't believe there was anything related to modifying any of the conditions that were put before the Board. I'm certainly happy to go and find some of those conditions and summarize them. I just don't have them in front of me at the moment.

Commissioner Summa: I don't think it was that they... I think they had a pretty big discussion about it which is what I was referring to. I don't think they made any votes on it. If no one is interested in pursuing this then I just wanted to bring it up. And I think it's something the school should consider, but if no one... I would hesitate to make it a Condition of Approval because it seems like the school and the parents and the student's decision really, but I do think it would make the project go much quicker and put the girls in a safer place during construction.

Chair Templeton: Does Staff have any comment on whether that kind of guidance would be in the scope for the PTC to provide?

Mr. Lait: So, I'll make some initial comments and then Amy may have found some other information, but certainly, the construction activity is of importance for everybody involved in this. And so, if the Commission has some additional perspective that you'd like to add so that

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1 we could ensure safety during this period of construction. We'd certainly welcome those... that
2 kind of combat... comment and feedback.

3
4 I will note that I'm looking at the ARB Condition of Approval that they recommended for the
5 logistic plan which it takes into consideration... it's our standard condition but there's some
6 component that we've beefed up from our typical projects. So, just to highlight a couple of
7 points. One is usually our logistic plan is just reviewed by the Public Works Department during
8 plan review. That's our typical process. In this case, we've already required review by the
9 Director of Planning Development Services, my position, but also the Office... the Chief
10 Transportation Official. So, that the three of us could coordinate and make sure that the logistic
11 plan is covering a multitude of interests. We also indicate that consideration of the Bryant Bike
12 Boulevard needs to factor into the logistic plan. Special consideration is needed to ensure
13 construction traffic does not interfere or interact with students arriving or leaving the site. We
14 say that the City shall have the authority to amend or modify the logistic plan as needed to
15 address neighborhood impacts and address public safety concerns. That all construction staging
16 is to take place on the site. So, and then it goes on to talk about our usual traffic control
17 measures. So, what we don't have in there and I don't know if it's in the Environmental Impact
18 Report. I don't know if it was identified as an impact about PM, ten, or any sort of pollutants
19 but that's not included in the logistic plan. That kind of air quality monitoring. So, if... I'll just
20 (interrupted)

21
22 Chair Templeton: Thank you.

23
24 Mr. Lait: As far as logistics go, we have a fairly robust condition. If the Commission feels like we
25 need to expand upon that, we're happy to do that as we're able to.

26
27 Chair Templeton: Thank you. Commissioner Summa, do you think that what has already
28 transpired addresses your concerns or where there some specific things you'd like to... like with
29 perhaps the particulates you want to add on there?

30
31 Commissioner Summa: I think it would be appropriate having... we had construction that went
32 on in upper Mayfield near College Terrace so on Cal Ave in the Research Park that when on for
33 like 5-years or something and people actually moved because of the particulate matter. Now
34 that was a bigger project. I think it's important to... as long as the Staff is secure that they... if
35 there is a problem. I mean there's those little air monitors all over the City as we know from
36 watching the fire particulate matter. As long as it could be addressed somehow if it becomes an
37 issue and like I said. I have a strong preference for the girls not being there when the
38 construction is happening but I do think that that is really a decision the school and parents
39 should make. So, I can leave it at that if no one else is interested.

40

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1 Mr. French: I would also just direct that Mitigation Measure 9a is all about the air quality so.

2

3 Chair Templeton: And Ms. French, do you have that Page Number up? If you're looking up.

4

5 Ms. French: It's Packet Page 134... sorry, Packet Page 133 through Packet Page 135.

6

7 Chair Templeton: Great, so we can refer to that. Yeah, I'm interested. I feel like we have
8 addressed many of those concerns to date but if there was something specific that you wanted
9 to add of course now would be a great time to make a motion there. Alright, Commissioner
10 Summa are you done with your time?

11

12 Commissioner Summa: Yes.

13

14 Chair Templeton: Ok. We can come back to you if you have more. Commissioner Alcheck
15 followed by Commissioner Lauing.

16

17 MOTION #6

18

19 Commissioner Alcheck: Ok. I won't comment on the last item because it didn't work out, but I
20 do have thoughts on it but I'll reserve them. I want to move that we recommend all of the other
21 Conditions of Approval as written. Mainly the ones that we have not already amended with the
22 intent of getting to Phase Two of the discussion which would be... I want to applaud us; 3-
23 hours; three items. This is... we're making good progress. So yeah, I'd like to make a motion that
24 we recommend approval of all of the remaining conditions that have not already previously
25 been amended.

26

27 Chair Templeton: Is there a second? Go ahead and unmute yourself if there is a second.

28

29 SECOND

30

31 Commissioner Hechtman: Second.

32

33 Chair Templeton: Ok, thank you, Commissioner Hechtman. Do you want to speak to the motion
34 Commissioner Alcheck?

35

36 Commissioner Alcheck: I think we've gotten very specific tonight on many of these conditions
37 and I think they represent the ones that we were clearly very motivated to discuss. I'd like us to
38 move to the second phase of this which is now that we understand the framework. Let's have
39 that discussion that gets us... that moves this along so.

40

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1 Chair Templeton: Thank you. Commissioner Hechtman followed by Commissioner Lauing.

2

3 Commissioner Hechtman: Yeah so, I just want to acknowledge in my second that it does not
4 involve... we'd be moving forward with this motion and not discussing the request we received
5 from the Castilleja attorney, or encouragement. Not request, encouragement, maybe a request,
6 to reconsider Item 22 and I just wanted to note that had somebody brought that up, even
7 though I was in the minority on that vote, I would not have supported a reconsideration. I think
8 the decisions that we make need to be firm decisions and we made one. And now it will go to
9 Council and I think Castilleja can make their presentation on that issue at Council. So, I'm
10 actually happy that no one has raised that issue. So, (interrupted)

11

12 Commissioner Alcheck: Yeah, actually, I just want to... I want to just address that if you don't
13 mind? That comment which is that I share your sentiment. If I could communicate to Council I
14 would suggest that I still believe that we should... that should be reviewed again, but I would
15 suggest to you, based on prior experience at the Commission level. That I wouldn't be surprised
16 if the Staff Report didn't communicate the Commission's recommendation but provided its own
17 recommendation alternative on that specific item. Considering some of the feedback we
18 received. So, that being said I think I'm glad you made a comment about it because it should be
19 incorporated into the minutes at this stage. It was the majority of individuals that supported
20 that particular motion may not be the same majority that supports the ultimate
21 recommendation and so I think that should be reflected. That sort of broken majority in that
22 regard so thank you for mentioning that.

23

24 Chair Templeton: Thank you, Commissioner Alcheck. Commissioner Hechtman, did you have
25 more?

26

27 Commissioner Hechtman: No, thank you.

28

29 Chair Templeton: Thank you. Commissioner Lauing, did you want to speak to this motion?

30

31 Commissioner Lauing: Yes. Excuse me. I wanted to speak to it. First of all, just in the way of
32 saying I had three more things that I was going to bring up, so I'll cover that in the context of
33 this motion. I don't think they're long, they're mostly questions.

34

35 It's this 29, 30, and 31 [note – Conditions] and they're... I think they're questions of Director
36 Lait. On... my question is when you get to the top unless there's at some point a CUP to go
37 beyond 540 to 1,000 or whatever. Is... does Number 30 prescribe how you would continue to
38 monitor that with respect to the TDM and any violations?

39

40 Mr. Lait: So, I'm... you're asking about Condition 30?

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1
2 Commissioner Lauing: I'm asking about Condition 30 but my question is this the one that's
3 applicable to once you get to the top of the allowed enrollment. You're still going to be
4 monitoring for any violations. Does this cover that in a way that you're comfortable that it
5 covers it?

6
7 Mr. Lait: That one would cover it. I think that there might be (interrupted)

8
9 Commissioner Lauing: 29 as well?

10
11 Mr. Lait: Yeah. So, I think there's definitely 30 which is a catch-all and 29 speaks to the ability to
12 suspend or increase enrollment as we need to or reduce it.

13
14 Commissioner Lauing: I'm talking about it when it's at the top. Let's say it's at 540 which is
15 what they're requesting. You still are going to be monitoring for some period of time before the
16 sunset period.

17
18 Mr. Lait: We will.

19
20 Commissioner Lauing: Is it 29 and 30 that let you (interrupted)

21
22 Mr. Lait: We will and so definitely 30 and I can take a look at Number 39... Number 29 but
23 definitely 30 gives the City that ability. If we're going to do... I think I mentioned this last time.
24 We're going to continue to monitor this. There's a deposit that we require the applicant to fund
25 so there's going to be annual compliance reviews of the conditions. I think the Planning
26 Commission at its last meeting imposed a condition where we come back in 15-years after the
27 project so that you're also going to have a chance to take a look at TDM performance. So, I
28 think there's... I think we're addressing that issue.

29
30 Commissioner Lauing: So, just to be specific, if it's 5-years till they get to the top of the allowed
31 enrollment and it's 15-years and we're going to take a look at it. In that 10-year period, you
32 could still give fines according to 29 and 30 for violations of the TDM.

33
34 Mr. Lait: The City has the authority to impose the Conditions of Approval if they exceed their
35 Conditions of Approval, their enrollment if their TDM plan doesn't work. There's... that's what
36 these conditions would do, allow for the City to take the necessary action.

37
38 Commissioner Lauing: That's what I was expecting you to say but I wanted you to clarify it and
39 at 29 I've just been a little concerned that those timeframes are too long, but that just may be a

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1 necessity. Is there any feeling on your part that they could be shortened up? I mean 60 down to
2 45 and.

3
4 Mr. Lait: I think the 60 is a pretty firm one only because it takes time to respond to... I mean the
5 first ones a notice so that's day zero right there. We send a notice of violation and we... the
6 school has 45-days to cure the violation and so part of that curing of the violation is may
7 require some time. It may require some changes in behavior. It may not be something that you
8 can just flip a switch and fix. And so that's why we gave 45-days so, that we could... if it was
9 cultural or habit or whatever it was. There's time to cure and correct that. So, that might be an
10 area where if the Commission felt that that too much time, you can reduce that. I would
11 encourage you to be mindful of how long would be appropriate and then the 60 could be
12 reduced. I would say that's some kind of a corresponding number with that but Staff needs to
13 have a little bit of time to get some paperwork together.

14
15 Commissioner Lauing: Well, I appreciate your clarification but also the breadth of your answer
16 because it points out things that you don't know yet what you have to investigate before you
17 can do it, so I appreciate that.

18
19 The last one I had was on 31. I'm presuming that this \$15,000 is some sort of a plugged number
20 and over time that varies by year or?

21
22 Mr. Lait: So, yeah, I mean it was a calculated number based on our Code Enforcement hourly
23 rate and how much time that we would anticipate would be required in a given year. Maybe an
24 18-month period and so it's an informed number and it's a starting place. So, if... once it... we
25 draw down to \$5,000 I think the number is. Then we ask the applicant to replenish it back to
26 \$15,000.

27
28 Commissioner Lauing: That's it. Thanks. Thanks, Jonathan.

29
30 Mr. Lait: Sure.

31 VOTE

32
33 Chair Templeton: Thank you. Raise your hand if you have any more comments on this motion.
34 Alright, it looks like we are ready to conduct a vote, Mr. Nguyen.

35
36 Mr. Nguyen: Yes. Commissioner Alcheck?

37
38 Commissioner Alcheck: Aye.

39
40 Mr. Nguyen: Commissioner Hechtman?

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Commissioner Hechtman: Yes.

Mr. Nguyen: Commissioner Lauing?

Commissioner Lauing: Yes.

Mr. Nguyen: Commissioner Riggs is absent. Vice-Chair Roohparvar?

Vice-Chair Roohparvar: Yes.

Mr. Nguyen: Commissioner Summa?

Commissioner Summa: Yes.

Mr. Nguyen: Chair Templeton?

Chair Templeton: Yes.

Mr. Nguyen: Ok, the motion carries 6-0-1.

MOTION #6 PASSED 6(Alcheck, Hechtman, Lauing, Roohparvar, Summa, Templeton)-0- 1(Riggs absent)

Chair Templeton: Thank you very much. Ok, so that was Commissioner Alcheck and if you want to move to the next set of comments feel free. If you have additional comments feel free to raise your hand. I see Commissioner Lauing's hand is raised. I don't know if that's left over from your comments on that motion, or if you want to take another stab at it? Ok. Would anyone like to speak on perhaps the Findings, or? Raise your hand guys and gals. Commissioner Hechtman, thank you very much.

Commissioner Hechtman: I wasn't anxious to go first, but since no one was stepping up I didn't want us to spent time waiting so I will. So, we're... oops, hold on a minute. So, moving to this issue of Findings and I do have some remarks and wave at me if I hit the 5-minute mark. I don't think I will, but I might.

So, as I did with the conditions, I earlier submitted a set of what I consider minor clean up changes to the Findings with the hope that eventually tonight we can agree to incorporate all of those into the Draft Findings that we recommend to the City Council.

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1 Turning to the CUP Findings and incidentally I'm hoping that Commissioners saw that interim
2 email since our November 4th meeting. I submitted just the language of the... not the language
3 but the concepts of the changes I'm about to recommend to the Findings. So, that you all could
4 see them and so that to the extent that any of them were viewed favorably by a majority of the
5 Commission, staff could be thinking about how to turn that into actual language. So, the Finding
6 changes I'm going to discuss tonight are... they're all listed on that document. What's... here I'm
7 going to add some color and explanation to help the understanding of it.

8
9 So, I'm going to start with the CUP Findings and regarding those Findings, CUP Finding Number
10 1, with the minor changes that I've proposed in my earlier submitted document (interrupted)

11
12 Commissioner Alcheck: I'm sorry, would you just reference Packet Pages while you're doing
13 this?

14
15 Commissioner Hechtman: Ok, let's see.

16
17 Commissioner Alcheck: Thank you.

18
19 Commissioner Hechtman: Yeah, hold on a minute. Got to get it.

20
21 Commissioner Alcheck: And I apologize, I didn't mean to throw you. I just... I think it helps a lot
22 for people out there.

23
24 Commissioner Hechtman: No, no, I can do this.

25
26 Commissioner Summa: Packet Page 68 of today's Packet.

27
28 Commissioner Hechtman: We want to use today's, or let's see?

29
30 Commissioner Summa: Or (interrupted)

31
32 Commissioner Hechtman: Let me take a look.

33
34 Commissioner Lauing: 45.

35
36 Ms. French: If you're looking for the October 28th Packet Pages, it's... the Findings are on Packet
37 Page 25 through 29.
38

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1 Commissioner Hechtman: Yeah and I'll mention that the document that I sent in with the minor
2 changes, that was based on... those are Packet Page 25 to 29. So, I think it would be maybe
3 more consistent if we refer to that range to tie everything together.

4
5 So, alright so then 25 to 29. Alright so CUP Finding Number 1, which is a lengthy, multi-part
6 Finding to which I have made suggested minor changes. I think that with those minor changes,
7 it's adequate and supported by substantial evidence and I'm ready to support that Finding.

8
9 In CUP Finding Number 2, which is on Packet Page 27 in the middle of the page, I think in the
10 first sentence after zoning designation there needs to be a parenthetical referencing Section
11 18.12.030 Table 1 because that's where private educational facilities are listed as a use allowed
12 with a CUP. Additionally, I think there should be a reference to the project's consistency with
13 the applicable Development and Parking Standards associated with this Finding Number 2. If
14 you look at Table 4.2 of the Final EIR, it contains that analysis, but that relates to the original
15 project, not Alternative Number 4 and so what I would suggest is that Table 4-2 from the FEIR
16 be adapted by Staff to apply to Alternative Number 4 and included in this Finding. And in one of
17 the Staff Reports, Staff had actually contemplated doing that and so they may already have it
18 somewhere. And then finally on Condition 2, when I look at the purpose of... I'm sorry, Finding
19 Number 2, CUP Finding Number 2. So, the purpose is discussing consistency with the Comp Plan
20 and/or the Zoning Ordinance, but the last sentence isn't tethered to either one. It's a statement
21 that I think needs to be tied to the Comp Plan and/or the Zoning Ordinance since that's the
22 subject of the Finding. I mean this is... the last sentence is nice information, but we need to
23 connect it to the purpose of the Finding.

24
25 So, those are my suggested changes on the CUP Findings and actually Chair Templeton, I think
26 that's a good place for me to stop. Let's maybe talk about the CUP Findings and then separately
27 the Variance Findings.

28
29 Chair Templeton: Ok. Are you making a motion to adopt your changes that you want support
30 for?

31
32 Commissioner Hechtman: Well, I'm actually... since I'm leading off (interrupted)

33
34 Chair Templeton: You want to wait till you hear [unintelligible](interrupted)

35
36 Commissioner Hechtman: There may be other comments or changes and I don't... then if I've
37 made changes to Finding 1. What happens if somebody else wants to make some different
38 changes? So, I think maybe a round of comments first. I'm happy to make a motion, but that's
39 my thinking.

40

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1 Chair Templeton: Ok, that's fine with me. I just remember last time we lost track because
2 everybody had minor modifications and it was hard by the time we came back. So, just want to
3 make sure you have thought that through. Ok so thank you for those comments and let's go to
4 Commissioner Alcheck next.

5
6 Commissioner Alcheck: Yeah, I'll be really brief. I agree with everything Commissioner
7 Hechtman just said. I would have liked it a little bit more if you had specified the language that
8 you would have adopted at the end of that paragraph. Well, only because it would have
9 brought me closer to understanding the, you know, your intent, but I feel the same way that he
10 does about the Findings that he discussed. And I don't have additional comments to make
11 about them and I think it's probably worth it for me to say that. So, that you guys know where
12 I'm at and particularly if Commissioner Hechtman will come back and make a motion.

13
14 Chair Templeton: Great, thank you. Vice-Chair Roohparvar.

15
16 Vice-Chair Roohparvar: Talking to myself. I agree with Commissioner Hechtman. I don't have
17 additional comments. What you say makes sense to me.

18
19 Chair Templeton: Alright. Commissioner Summa followed by Templeton.

20
21 Commissioner Summa: Ok so the CUP Findings, I can't make either 1 or 2. Let me talk about 2
22 first. I do agree that the use and location is conducted in a manner that is in accord with the
23 Comprehensive Plan, but I do not think it meets the Zoning Ordinance in all ways. I think it's
24 inconsistent. I have... we had a lot of discussion about the basement, the parking garage...
25 underground parking garage FAR in which our attorney advisor said you know, you can disagree
26 with the Staff's interpretation of this. And I just can't find anything in the code that allows for
27 the FAR the parking garage to be not counted. The floor area I mean of the parking garage to...
28 not to be counted. We had one example which I feel might have been a mistake and no other
29 examples were provided so I can't make that part of that Finding.

30
31 And for Finding 1, I really can't make that either and that is because enough people have
32 decided that the increased use enrollment or expansion of the school will hurt their general
33 welfare and convenience. I am 100 percent happy to... for a project that replaces the buildings.
34 The two schoolroom buildings are in really poor condition and the classes in the basement
35 aren't very pleasant. So, I fully agree with that and would find no problem allowing them to
36 replace that and renovate their site, but I just can't find that all of this is consistent with our
37 code. Everything that's being provided. I do not think... there's other little things in this whole
38 list of a through whatever it is, e or f, under Finding 1. For instance, tree removals and
39 relocations. I do not believe that mature trees can be relocated with any assurance. I think the
40 only trees that are like species size grown trees that you can really relocate are Palm Trees and I

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1 think that we heard a lot of concern about that. I do not think that for instance in f, relocating
2 bus loading and unloading to the circle enhances the residential neighborhood compared to the
3 existing conditions, because I mean all the trucks and buses will still have to come through the
4 neighborhood. So, I just don't find it all to be true and I think the CUP Findings are pretty
5 straight forward and I just can't make them. So, that's where I'm at, thanks.
6

7 Chair Templeton: Thank you, Commissioner Summa. I wanted to ask Staff about in previous... I
8 don't remember if it was the 4th or the 28th, but in a previous meeting, we discussed the
9 inconsistencies between various governing documents around the parking facility. And I was
10 wondering if you had a chance to look at what we would need to bring those different guidance
11 to be more consistent? I think that would help me make the Findings, but I'm concerned right
12 now because we have different guidance on different documents as Commissioner Summa
13 mentioned.
14

15 Ms. Tanner: That's a great question, Chair Templeton and Commissioner Summa. Ms. French or
16 Mr. Lait, did you want to address the consistency or the challenges perhaps with consistency
17 regarding the parking garage governance?
18

19 Ms. French: I can certainly bring up the slides that we presented back in September I think it
20 was.
21

22 Ms. Tanner: And would that be helpful?
23

24 Chair Templeton: I'm more asking about the follow up with the concerns we still had after
25 viewing those slides.
26

27 Ms. Tanner: I think Amy the... it's not as much about the content, but have we done perhaps to
28 address the inconsistency? Is that kind of the question Chair?
29

30 Chair Templeton: Yes, that's exactly the question.
31

32 Ms. Tanner: And how would we going forward know that those had been reconciled for the
33 project in the future?
34

35 Ms. French: Well, certainly there's always an opportunity to modify our Zoning Codes to be
36 specific. The code is... enables interpretation. That is part of our Zoning Code business as to
37 what we do. We read the code, we find where it's precise and there's other areas where it's
38 less precise. And so, what do we do going forward? We can certainly have direction from
39 Council to modify our code to be precise and to eliminate all garages in the R1 Zone for any
40 kind of use. That would be something the Council could direct us to do.

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Chair Templeton: I don't think it's we're suggesting to eliminate all garages in an R1 Zone, Ms. French. I don't think that's the question.

Ms. French: Ok, I don't understand.

Chair Templeton: Do you mean underground parking facilities? Do you mean underground parking facilities?

Ms. French: Isn't that what you're saying? Underground parking facilities?

Chair Templeton: That's what I'm saying. I think you maybe said all garages.

Ms. French: No, I meant all... so garages are above grade for single-family homes in the R1 Zone. Underground parking facilities are not prohibited in the R1 Zone when they're not for single-family homes. That's our interpretation. We stand by that. If the Council in receiving this recommendation... Staff's recommendation on how to interpret our codes, they can decide how to direct us to modify our code and come back and interpret, or you know have an actual code that says the below-grade parking facilities for non-residential should count towards Gross Floor Area. They can direct that.

Chair Templeton: Ok.

Ms. Tanner: Does that address your concerns? I think in the code today it is what it is and to Ms. French's point, we would need to either be directed to, or work on bringing forward such a change to reconcile any of the perceived conflicts, or inconsistencies.

Chair Templeton: Yeah, I think that's what I was getting at last time was more do we need to bring these into harmony in order to make the Findings and my feeling, that would be helpful for me. It sounds like that's not Staff's recommendation and I just wanted to have an official response to that request from last time and it's fine if we disagree. That happens, but I just wanted to make sure we followed up on that thread.

Mr. Lait: I'll just make one note if you don't mind Chair?

Chair Templeton: Please.

Mr. Lait: So, I think we acknowledge that there's some interpretation taking place here. We've in fact have asked the Planning Commission... Planning and Transportation Commission to sort of weigh in on that in your deliberation. So, we welcome additional feedback or guidance. In

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1 fact, the Commission can make a recommendation, a motion, to the City Council that we make
2 that change to the code. So, that there is some clarity and so we... that's an option that's
3 available.

4
5 We didn't come... there's been a series of continued meetings and so we didn't have a new
6 recommendation, but we can certainly expand on this in our Staff Report to City Council when
7 they receive it to note and document the Commission's dialog around this issue.

8
9 Chair Templeton: Yes, that's great. I think it would be helpful. I continue to be concerned about
10 the implications. You know we're already seeing the only example of an underground parking
11 facility being used to justify a potential second example of an underground parking facility in
12 R1. I'm just concerned about the implication and when people are looking at the different
13 documents that aren't consistent. It does leave that room for interpretation in a way that
14 maybe it was intended to do as Ms. French noted, or maybe it's an inconsistency that needs to
15 be closed. So, I think that would be great to highlight for Council. Thank you.

16
17 Alright, so let's move to the queue here. We've got Commissioner Hechtman followed by
18 Alcheck followed by... are these the same? Are your hands still up if you're in the queue? Ok.

19
20 Commissioner Hechtman: Sorry.

21
22 Chair Templeton: That's ok. Let's go to Commissioner Lauing. Thank you.

23
24 Commissioner Lauing: I thought I was further back in the queue. Is there one preliminary
25 question and the stuff that you write upfront about minor alterations of the Gunn building,
26 retention of two Emerson residential structures. Is that just to sort of tell you what's not going
27 to get changed? Is that why that's there? I guess I'm asking Ms. Tanner that, or maybe it's Ms.
28 French. Just before the CUP Findings, there's just like six sort of random bullet points and so I
29 didn't know how that (interrupted)

30
31 Ms. Tanner: And can you state the Packet Page you're looking at, just so we can literally be on
32 the same page.

33
34 Commissioner Lauing: It's your original Packet Page 25 right under Attachment A, Draft CUP,
35 and Variance Findings.

36
37 Ms. Tanner: Ok and Ms. French or Mr. Lait, can you... they're the authors of this Staff Report
38 and so would want to refer to their intention with that.

39
40 Commissioner Lauing: It's a minor point. I'm just trying to understand what I'm reading here.

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Ms. Tanner: No, it's good to clarify.

Mr. Lait: I think what's going on here is that this is... these Findings and conditions are related to the Project Alternative 4 as opposed to the project as it was originally presented.

Commissioner Lauing: I see.

Mr. Lait: And so, these bullet points reiterate and amplify the fact that this is regarding the Alternative, the Project Alternative, and not the base project.

Commissioner Lauing: Ok and just as long as I'm on that, the second bullet point is the retention of two Emerson residential structures and I remember from an earlier meeting that those were going to be not... they were somehow constrained. I mean they couldn't rent them out or?

Mr. Lait: Yah.

Commissioner Lauing: Is that specified somewhere?

Ms. Lait: There is, yeah.

Ms. French: These are separate parcels no longer part of the proposal going forward. So, those are single-family dwellings on separate parcels as part of Alternative 4.

Commissioner Lauing: But what's the plan? Are they going to rent them out or what?

Mr. Lait: Well, we'd have to ask the applicant about that, but I will draw your attention to Condition 13 on what I have is Packet Page 33 where it makes clear that the two residential properties are not associated or a part of the school.

Commissioner Lauing: That's exactly... that's what I was referring to, but I couldn't find it so.

Mr. Lait: Sure.

Commissioner Lauing: So, on the CUP... am I on? On the CUP, I actually... I associate myself pretty closely with Commissioner Summa. I just think that this whole enrollment conversation we just had just puts a lot of risk on the project. Everybody wants it to work; Castilleja, the Staff, neighbors, Commissioners, but we just don't know and with our discussion that we just had. We're not going to get four of us willing to not take as big of a risk, so I think that that has an impact on events. I think it definitely has an impact on... in a number of places here. These

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1 enhanced TDM program and Mitigation Measures are plans and I'm... grant that the current
2 protection measure to ensure the survival of trees are being followed so I can't fault on that.
3 Although, there's going to be a loss of canopy there.

4
5 On the second one, I think the intention to improve with the existing TDMs, we've been talking
6 about all night. That's a very honest intention and I think the Comprehensive Plan is in good
7 shape, but with what we've just done in the CUP, at this point I can't make either of those
8 Findings, particularly Number 1. That's all.

9
10 Chair Templeton: Thank you. Any other Commissioners? Commissioner Alcheck.

11
12 Commissioner Alcheck: Can I encourage you Commissioner Hechtman to formulate a motion? I
13 think there may be support for it and I think it would really help us proceed.

14
15 Chair Templeton: Commissioner Hechtman?

16
17 Commissioner Hechtman: Thank you. I think there's only two Findings here and I think the
18 cleanest way to do it is to make two motions. One for each of the two CUP Findings and I want
19 to start with CUP Finding Number 1, but before I can do that. I need Staff to tell me in CUP
20 Finding 1 C, subpart L, what they replaced the word toads with?

21
22 Ms. French: I can do that.

23
24 Commissioner Hechtman: Thank you.

25
26 Ms. French: Ok so toads is the... the condition was toads only 114 net new daily trips and that
27 should be (interrupted)

28
29 Commissioner Hechtman: Packet Page 26.

30
31 Ms. French: Yes, and it should be increasing the number of daily trips to 114 net new daily trips.

32
33 Commissioner Hechtman: Ok. Alright, thank you. So

34
35 MOTION #7

36
37 Commissioner Hechtman: So, I will move the Staff recommendation version of CUP Finding
38 Number 1 with the changes I had earlier submitted to subpart 1c, f, two little i, 1e second
39 bullet, and the change Staff has just described to 1c subpart L.

40

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1 SECOND

2

3 Commissioner Alcheck: Second.

4

5 Chair Templeton: I don't think that's c, subpart L. Is that possible d, subpart L?

6

7 Commissioner Hechtman Oh.

8

9 Ms. French: It's d.

10

11 Commissioner Hechtman: You're right. Actually (interrupted)

12

13 Ms. French: Yeah.

14

15 Commissioner Hechtman: Both of my c's were d's. It was up at the top of the page. I didn't see
16 it so it's 1d subpart f, two little i, d-L, and e second bullet. Thank you, Chair Templeton.

17

18 Commissioner Alcheck: I'd like to second that Chair Templeton.

19

20 Chair Templeton: Ok, thank you. I see hands up. If you are planning to speak to this motion I'll
21 go through in order. Commissioner Lauing? Oh, do you still have your hand up? Alright, oh, look
22 at you guys. Excellent. Ok do either the maker or the seconder want to speak more about
23 (interrupted)

24

25 Commissioner Alcheck: I think we had a pretty robust discussion. I'm fine to continue.

26

27 VOTE

28

29 Chair Templeton: Great, ok. Anyone want to make additional comments now is your chance?
30 Ok, Mr. Nguyen, please conduct the vote.

31

32 Mr. Nguyen: Commissioner Alcheck?

33

34 Commissioner Alcheck: Aye.

35

36 Mr. Nguyen: Commissioner Hechtman?

37

38 Commissioner Hechtman: Aye.

39

40 Mr. Nguyen: Commissioner Lauing?

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Commissioner Lauing: No.

Mr. Nguyen: Commissioner Riggs is absent. Vice-Chair Roohparvar?

Vice-Chair Roohparvar: Yes.

Mr. Nguyen: Commissioner Summa?

Commissioner Summa: No.

Mr. Nguyen: Chair Templeton?

Chair Templeton: Yes.

Mr. Nguyen: Ok the motion carries 4-2-1.

MOTION #7 PASSED 4(Alcheck, Hechtman, Roohparvar, Templeton)- 2(Lauing, Summa) – 1(Riggs absent)

Chair Templeton: Commissioner Hechtman, back to you.

Commissioner Hechtman: Yes, thank you. I'd like to make a motion regarding CUP Finding Number 2 and (interrupted)

Chair Templeton: Hold on, I'm sorry. Do either Commissioner Lauing or Summa want to speak their no votes? Sorry about that.

Commissioner Summa: I will.

Chair Templeton: Ok.

Commissioner Summa: So, yeah, unfortunately, there were just too many inconsistencies and the... and not explained to my satisfaction by Staff. As a matter of fact, I think some members of the public did a really good job of explaining them. And I also worry that we're going to put our self in a situation where there might potentially be... not that I have any information about this but litigation on this project on some of these issues, which could hold the project up for years and years if that happens so. And I certainly couldn't make the CUP Findings based on the enrollment and events numbers that the majority wanted.

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1 Chair Templeton: Thank you very much. Commissioner Lauing, do you want to speak? You're
2 good, ok. Back to you Commissioner Hechtman, my apologies.

3
4 MOTION #8

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6 Commissioner Hechtman: Thank you. So, turning to CUP Finding Number 2, I move that we
7 recommend to the City Council the Staff recommended version of Finding Number 2 with the
8 following changes. The two indicated in my earlier document which are replacing the word
9 private with the word the and removing the underlining from the provision. Then in the first
10 sentence after zoning designation, adding a parenthetical reference to Section 18.12.030 Table
11 1. Then to be created by Staff a reference to the project's consistency with the applicable
12 Development and Parking Standards including a table... analogues to Table 4-2 of the Final EIR,
13 but related... applying to the facts of Project Alternative Number 4. And finally, as to the last
14 sentence of Finding... CUP Finding Number 2 at Commissioner Alcheck's suggestion, I have
15 scribbled some language here to add after the word operations at the end of the sentence.
16 Replace the period with a comma and add in a manner that is consistent with the intent and
17 provisions of the Comprehensive Plan and the purposes of the Zoning Ordinance. That's the
18 motion.

19
20 Chair Templeton: Alright, is that if for the motion? Thank you. Is there a second?

21
22 SECOND

23
24 Commissioner Alcheck: I'll second that motion.

25
26 Chair Templeton: Thank you. Either of you want to speak further about this motion at this
27 time?

28
29 Commissioner Hechtman: No thank you.

30
31 Chair Templeton: Ok. You're the only hands I see raised so if any other Commissioners want to
32 speak to this motion before voting, please raise your hand. I will at least speak to this. I do not
33 intend to support this motion because of the inconsistencies in the underground parking
34 structure/garage conversation which I do not feel has been sufficiently resolved to my
35 satisfaction. And I see that as a big departure from what other properties in the area are
36 allowed to do and so I just don't feel like it is consistent on those fronts. I could be persuaded
37 if... it looks like if Council per Staff... Staff has suggested that Council needs to be the one that
38 initiates that. If they were to make it clear on what the guidance is in those directions I think
39 that would be better for us, but it's not currently consistent because neither of the documents
40 are consistent. So, that is my comment. Commissioner Summa, I see your hand raised and

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1 Commissioner Alcheck, did you want to speak? Ok. Commissioner Summa and then
2 Commissioner Alcheck.

3

4 Commissioner Summa: I think Commissioner Alcheck was first, ahead of me.

5

6 Chair Templeton: He's already spoken so please, take your turn.

7

8 Commissioner Summa: Oh, ok.

9

10 Chair Templeton: He'll go after you.

11

12 Commissioner Summa: Thank you. I would... I just wanted to support you in that I can't... I'm
13 not there yet with thinking that that is supported by our Zoning Ordinance. The counting of the
14 floor area in the parking garage and I also am fairly troubled by a consistent inconsistency in the
15 square feet being replaced. Especially, regarding a late submission, we got from a member of
16 the public today with four City documents that suggested a lower number so yeah, thanks.

17

18 Chair Templeton: Thank you, Commissioner Summa. Commissioner Alcheck followed by
19 Commissioner Lauing.

20

21 Commissioner Alcheck: I hope I can take a few minutes here to suggest to you my perspective
22 on this in an effort to convince you to consider this a second time before we vote. I've had
23 some experience with confusing code interpretation. I say that because that's literally my
24 professional experience. When I worked as a real estate and land use attorney for the large
25 firms that I worked for. We would spend a great deal of time evaluating code language in an
26 effort to really drill it down and understand the nuance and what I would suggest to you is that
27 there is one thing that almost every code... a Zoning Code in California has in common which is
28 their areas where clarity could... there could be more clarity. That is an inherent problem in our
29 Zoning Code. It is actually the justification for things like the annual code cleanup that Palo Alto
30 attempts to engage in.

31

32 One of the things that... there are guidelines in how attorneys often interpret code. Sometime
33 they'll use... sometimes they'll look to see if the language is specific as opposed to general. If it's
34 exclusive as opposed to inclusive. What I would suggest to you is that our code is inherently and
35 completely specific as to limit the opportunity to have an underground garage in an R1 for
36 residential homes. It's a big component. I'm not 100 percent sure. My theory is that it took
37 place somewhere in the mid-90s because there are some homes that were built in the '90s that
38 have below-grade garages. Particularly, a couple on Churchill, but my point is, is that the code
39 very specifically specifies that for a single-family home in the R1. An underground garage is not
40 permitted... not permissible.

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2 Our code also has a lot... there's a lot of language regarding whether the square footage of a
3 garage should count to FAR. And presumably, at some point, it wasn't counted towards FAR
4 and what that meant was that people built their homes to the maximum of the FAR and they
5 were encouraged to have two or three-car garages which increased the entire size of the home.
6 And ultimately, I believe that the code changed to address that problem by saying, no, no, no.
7 We're counting the FAR in your garage and that ultimately created a trend in our community
8 where people started building one-car garages reducing the size of garages. It may have been...
9 there may have been a time when that was different but today there's a strong trend to have
10 these single car garages and that's because they can't... that's FAR you could use in other
11 places.

12
13 So, then comes the third element. This is also relatively new. This concept of below-grade
14 improved areas and the code treats them as not particularly counting towards FAR because...
15 the rationale is actually not important. It's not even provided. There is no clear rationale. There
16 is no statement in our code that says we don't care about below-grade basements because we
17 can't see them. It doesn't say that. It just says very clearly that below-grade single-family
18 improvements don't count towards the total FAR.

19
20 I think where the nuance here is, is this notion that what applies to a single-family home in an
21 R1 necessarily applies to a non-single-family home in an R1. And this is actually what's so
22 complicated about how zoning which is that we don't zone a parcel for a school and so we
23 create a... I'm not disagreeing with you. We create an undeniable conflict here because wait a
24 minute, we do allow underground garages for all sorts of commercial and industrial uses and a
25 school is not a... a school, a synagogue, a church. These are not residential environments. One
26 time I heard Council discuss underground garages and someone suggested that maybe one of
27 the reasons why they stopped allowing them in the mid-90s was because when people backed
28 out of underground garages. Back out of underground garage, it creates a danger for people
29 walking on the sidewalk. It's a very different execution an underground garage under a single-
30 family home in a small lot than an underground garage in a big parking facility that has a very
31 different execution.

32
33 So, what I would suggest to you is that... what I would like to suggest to you is that it's one thing
34 to suggest that our code actually has a conflict with itself. It's another thing to suggest that
35 there are inconsistencies in the way we approach single-family homes and other types of
36 development. We approach them differently. We don't count... we don't force other types of
37 improvements other than single-family homes to have the restriction no underground garages.
38 And then by that very same token, in single-family homes, you can't have an underground
39 improved area that extends past the perimeter of your home. That is another requirement.
40 That limitation does specifically apply to non-single-family homes in R1 and that's the crux of

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1 this situation. So, that it's not that the City Staff just interpreted it like they chose to implement
2 this in a different. The language doesn't give them the footing to say wait a minute, you can't
3 build a garage underground in R1, even if you're a school. It doesn't say that and the failure to
4 say that is determinative.

5
6 And then the last thing that I would say to you is, I would suggest to you two things. I don't
7 know that I would support a motion, for example, that added the recommendation that Council
8 makes the determination that underground garages shouldn't be allowed in R1 for the use of
9 non-residential purposes. Because I think that the example that has... that was referenced, the
10 Kol Emeth example, which does two things for this Staff interpretation. Number one, that
11 garage extends beyond the perimeter of the building. That's important because this one does
12 too and there's nothing that specifically says you can't do that. And the second thing is that it
13 didn't count towards FAR which again, I think they're applying the same logic here which I think
14 they're in the right to do that. And what I would suggest to you is that I wouldn't support that
15 because I think the execution of that synagogue in that neighborhood and I would suggest to
16 you that the execution of this school's improvement in this neighborhood are benefited by that
17 flexibility of being able to build in an R1 underground parking; because the concerns regarding
18 underground parking for a site like this are not the same as the concerns people may have for
19 an underground parking facility in a single-family home context.

20
21 And so, I would suggest to you that being a... I would suggest to you that the complexity of the
22 code and the way that it sometimes appears to conflict with itself because it doesn't apply to
23 every rule to every type of project, in the same way, has allowed the code to essentially serve
24 as a scapegoat for somehow allowing this project in a way that it shouldn't have been allowed.
25 And I'm not suggesting here garages are good, garages are bad, underground they shouldn't be
26 counted, they should be counted. What I'm suggesting to you is in the absence of code saying
27 we're supposed to count that FAR, or in the absence of code saying you can't extend beyond
28 the perimeter of a non-residential building in an R1. In the absence of that, I don't think we
29 have the... I don't think it's fair to suggest that the code is somehow being subverted and so I
30 generally agree with you that we should say specifically what you can do. The problem is if you
31 design a code to be we are going to tell you only what you can do. Then you constantly get
32 applications where like well can I do this? Can I do this? You didn't say I could do this. Can I do
33 this? So, sometimes they say what you can't do and ultimately that leads to confusion and I
34 think its sort of the Planning Department's ultimate responsibility to correct that and I imagine
35 they will. I imagine that there is going to be another project wherever and they'll say well can
36 we have an underground parking facility? Multi-family housing is an example of something that
37 could happen now in R1 and it may not qualify as a limitation on underground parking. I can't
38 say for use because maybe that single-family limit doesn't apply to multi-family. I don't know
39 but I guess what I'm trying to say is that it's pretty complex and my hope is that we don't
40 essentially punish the applicant for following the rules that exist as they're written.

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2 And I would suggest that this is where the leaning on the City Attorney is so important because
3 they ultimately... they are ultimately the best interpreters of the code. And so, I would
4 encourage you to consider that and if that changes your mind, great. If it doesn't, I still think
5 that's ok, but I just wanted you to know that I share your sentiment and the frustration. I think
6 many people do but this is part in parcel with the sort of work that is involved with this type of
7 development.

8
9 Chair Templeton: Thank you, Commissioner Alcheck. Commissioner Lauing followed by Vice-
10 Chair Roohparvar.

11
12 Commissioner Lauing: Thank you. Chair Templeton, I think you're right on point with this issue
13 and I think it's perfectly fine to for example, on this to send this Finding let's say it's 3-3. The
14 choices are pretty simple. You can do a code clean up, you can count it as FAR, or you can say,
15 you know, you probably shouldn't do the garage, but that's not something for us to opine on
16 tonight or even decided on. I think we should... have expressed our issues there and I think we
17 can pass those issues on to Council for judication. So, I would agree with you on your
18 comments.

19
20 Chair Templeton: Thank you very much. Vice-Chair Roohparvar.

21
22 Vice-Chair Roohparvar: Thank you. I tend to... thank you for all the debate... do tend to differ to
23 our City Attorney given his experience. So, one more time City Attorney Yang, you explained it
24 last time and it really resonated with me and I just want to hear it one more time to make sure I
25 fully understand because now it's been some time. There's now been questions raised so I want
26 to hear it one more time. Could you please tee this up and explain it quickly again, if that's ok?

27
28 Mr. Yang: So, I think that there are two I guess primary issues that come up around this
29 underground parking garage/parking facility. The first is can it be underground and are
30 underground prohibited in the R1? And I don't think that's any real ambiguity in the code there.
31 Underground garages are prohibited in R1 for single-family. They are not prohibited in R1 for
32 non-residential.

33
34 The other issue is should this be counted as FAR and I think it's murkier there. The code says in
35 R1 Districts that garages are counted as FAR, but then it very clearly specifies when we use the
36 word garage we mean a parking structure that is associated with a residential use. So, from my
37 perspective, that means that a non-residential parking structure does not fall into that
38 category, but the code doesn't tell us what to do with non-residential parking structures. It
39 doesn't say whether or not non-residential parking structure should be counted towards FAR.

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1 And so, the only other place that we look to see... to find some [unintelligible] in the code was
2 what the code says about basements and it says that basements don't count as FAR in the R1
3 Zone and I think that's probably where a lot of people get tripped up. That's where this issue of
4 can it extend beyond the footprint comes from because it's... the code says that that's an issue
5 when you're talking about basements.

6
7 Vice-Chair Roohparvar: Got it. So, it's silent? So, the code is silent. It just says that you can't do
8 it... it only applies to residential use and therefore their offer it's silent. There's nothing in our
9 code that says anything about whether it can happen or not. So, that doesn't even mean no and
10 now in order to... for us to get great guidance we're looking at something in parallel. So, now I
11 get what you're... I get it. So, it totally makes sense to me. Ok. Sorry, go ahead City Attorney
12 Yang.

13
14 Mr. Yang: I guess I would say I think the primary issue of interpretation is around whether it
15 should count as FAR and, in that area, we went with what we had previously done with Kol
16 Emeth synagogue.

17
18 Vice-Chair Roohparvar: Precedent. Ok. Keep... sorry, for interrupting you.

19
20 Mr. Yang: I think that's... that's all.

21
22 Vice-Chair Roohparvar: Yeah and that's why we were relying on precedent to give us guidance
23 and that precedent (interrupted)

24
25 Mr. Yang: Right, but that then raises these questions about ok, should it really be thought of as
26 a basement and can it be allowed to extend beyond the footprint of the building?

27
28 Vice-Chair Roohparvar: Well, we just went with the best guidance and precedent that we had,
29 and this is what it leads to us. Got it. Ok, thank you. That was extremely helpful for me.

30
31 Chair Templeton: Great, thank you. Any other comments before we take a vote? Ok, Mr.
32 Nguyen please conduct the vote.

33
34 Mr. Nguyen: Commissioner Alcheck?

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36 Commissioner Alcheck: Aye.

37
38 Mr. Nguyen: Commissioner Hechtman?

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40 Commissioner Hechtman: Yes.

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Mr. Nguyen: Commissioner Lauing?

Commissioner Lauing: No.

Mr. Nguyen: Commissioner Riggs is absent. Vice-Chair Roohparvar?

Vice-Chair Roohparvar: Yes.

Mr. Nguyen: Commissioner Summa?

Commissioner Summa: No.

Mr. Nguyen: Chair Templeton?

Chair Templeton: No. No.

Mr. Nguyen: Ok, with a vote of 3-3-1, Albert can you clarify if that passes?

Ms. Tanner: Yes, hopefully, Mr. Yang can (interrupted)

Mr. Yang: The motion does not pass.

MOTION #8 FAILED 3(Alcheck, Hechtman, Roohparvar) -3 (Lauing, Summa, Templeton)- 1(Riggs absent)

Ms. Tanner: Albert, can you explain what happens with this item and with this motion based on that in relation to the entire project and its progress forward?

Mr. Yang: Yeah sure, so the motion does not carry but we also don't have a recommendation, right? That's not a recommendation for not being able to make this Finding so the Commission needs to continue its work until it can make a recommendation.

Ms. Tanner: Thank you and Commissioners, that work can continue through discussion this evening. It could continue to a date when there (interrupted)

Commissioner Alcheck: Chair Templeton?

Ms. Tanner: Are seven Commissioner present to have a vote that goes one direction or the other.

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Commissioner Alcheck: Can I make an alternative motion?

Chair Templeton: Hold on. I... I'm sorry, could Ms. Tanner please repeat? I couldn't hear with your interruption. Please wait.

Ms. Tanner: I was just saying that at Albert said to continue our work, so the Commission could continue the work tonight such as Commissioner Alcheck making a motion, or other motions that have a majority to go one direction or the other. That could also include continuing the work on a date when there are seven Commission Members that might also have a motion. Have a majority vote one way or the other.

Chair Templeton: I see. Ok, thank you. I... alright, is that why your hand is up? Is there additional comments that you want to make Ms. Tanner?

Ms. Tanner: That was it. I'll lower my hand. Sorry about that.

Chair Templeton: Ok, great. I see... I heard you Commissioner Alcheck, but I see Commissioner Lauing's hand up, and then I will go to you. Commissioner Lauing.

Commissioner Lauing: So, I would... I'd really like to get clarification on that comment from our attorney because in the past, in my 4-years, there have been items that we have basically tied on and they went on to Council with all of the comments and that was sufficient. So, why would it not be sufficient on this particular item? We've debated, we've given arguments on all sides, and that's how it came out.

Mr. Yang: So, I guess if there were a motion to forward the absence of a recommendation to Council. There's just no action by the Commission at this point. You need to have a motion that carries.

Commissioner Lauing: Well, we're always making recommendations and the recommendation on one was one way and two was another way.

Chair Templeton: I think I can help. Commissioner Lauing, we voted on the CUP Finding Number 2 and whether we supported it, but we didn't then follow with the recommendation to Council which would be a separate motion because we split 1 and 2 and we have additional items to consider before we're done with the work. Including the Variance Findings so does that address your question?

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1 Commissioner Lauing: So, you're saying that on CUP Item 1, we've decided we're sending that
2 to Council because of the vote but on CUP Item 2, we're not going to without another vote?

3
4 Mr. Yang: Yes, there's been no action on CUP Finding Number 2.

5
6 Commissioner Lauing: Well, there's been a lot of action. There hasn't been a definitive action.

7
8 Mr. Yang: Well, there has been no action by the Commission.

9
10 Commissioner Lauing: Right, so I'm just saying are you saying that we can then make another
11 motion that we just want to send the 3-3 to Council?

12
13 Mr. Yang: Yes.

14
15 Commissioner Lauing: Ok and Chair Templeton, when do you want that motion?

16
17 Chair Templeton: I think Commissioner Alcheck is ahead of you in the motion making line, but
18 you're next in queue. Would that be acceptable?

19
20 Commissioner Lauing: Sure.

21
22 Chair Templeton: Ok, Commissioner Alcheck followed by Commissioner Lauing.

23
24 Commissioner Alcheck: So, what I would suggest is because I actually... and Chair Templeton,
25 I'm really looking for your second here because in the end or Commissioner Lauing or
26 Commissioner Summa in that regard because that's the goal here is to move forward. So, what I
27 would suggest is that we put forward the same language that Commissioner Hechtman had
28 draft because I think the language he used... I understand that we don't have an agreement on
29 whether or not we can make the Finding. That there is a consistency here with underlying
30 zoning but I still think that the changes he made, 18.2.030, that remark. The addition at the
31 conclusion of the sentence operations comma in a manner. I think you guys know what I'm
32 getting at. What I'd like to do is put forward that motion and then say that we recommend that
33 Council review this Finding in the absence of a majority agreement among the Commissioners
34 present at the time. And so, it preserves the language... the work that Commissioner Hechtman
35 did and it demonstrates that we are comfortable essentially moving this project to the City
36 Council level without conclusively making this Finding in the absence of a majority.

37
38 Chair Templeton: I would prefer if you want the language to be voted separately. Then we can
39 have a discussion around what to do next. I don't know why we have to tie those together and I
40 think that was maybe a flaw in the first motion.

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Commissioner Alcheck: Oh, I did not... ok, so just to be clear. The language that was changed was the reference to the table that I think is inaccurate here so correcting that reference. Not inaccurate, but referring to the wrong EIR. We want it to... we wanted Staff to refer to the correct project within the EIR, or let me rephrase that. I think you said reference to the project consistency including a table that analogous to 4.2. Am I getting it right? Yeah, so the idea here was to correct the language of this so that it accurately reflects what I think it's trying to say, but let me put it to you this way.

I don't think actually that even makes a difference. If we don't have agreement on this then maybe what I would suggest is that we move that in the absence of an ability to gain a majority agreement on the consistency of the zoning with the... is it safe to assume that your conflicted only on the FAR issue, or are you conflicted on the underground part too?

Chair Templeton: The underground part.

Commissioner Alcheck: Both?

Chair Templeton: Yeah, I did not get a chance to speak my no.

MOTION #9

Commissioner Alcheck: Ok well, I guess I would say in the absence of being able to find consistency with the underground parking facility and our zoning and the absence to get a majority. We were unable to make the Finding on Number 2 but we're satisfied with moving that item to City Council. Would you support a motion like that?

Chair Templeton: Potentially. Let me provide an alternative scenario. We do have many pages more of... oh, it's just two pages more of the Variance Findings. And I don't know how long that discussion will go, but we do have the opportunity to [unintelligible](interrupted)

Commissioner Alcheck: I'll show my cards if you will? I don't have comments to make on the Variance Findings. Maybe it would help if you heard from some of the other Commissioners whether they have lots of comments to make.

Chair Templeton: That would help.

Commissioner Alcheck: I would argue if you had four Commissioners who don't have lots of comments to make on the Variance Findings then we probably don't have a lot ahead of us. And I say this... and I'm making this motion not because I don't think that for example

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1 Commissioner Riggs presences... if we were even to have seven, it's not a guarantee at our next
2 meeting, wouldn't help essentially break this, but it's not just that we need a tie-breaker. It's
3 that we need an affirmative tie-breaker to move this forward and what I think is, as a
4 recommending body, it's not a flaw to say we struggled with this Finding. And we would like the
5 Council to sit with it and understand why we had difficulty making the Finding. If for example,
6 we were making a determination and that this Finding carried on the project. I think it would be
7 different, but since we're just a body that's advising Council. I don't think we actually have to
8 make the Finding. We can just move the Finding if you will which is different. That's why I'm
9 making this motion now. Not to essentially stop further debate, but to suggest that it's even
10 more instructive I think to City Council that we struggled with it. Then if for example,
11 Commissioner Riggs were to join us and we passed it 4-3. It wouldn't be as indicative of maybe
12 the message that you for example want to pass on. So, that's all I'm saying.

13

14 Chair Templeton: Did your motion get a second?

15

16 Commissioner Alcheck: That depends on you.

17

18 Chair Templeton: It looks like Commissioner Lauing has a comment. Did you want to speak?

19

20 SECOND

21

22 Commissioner Lauing: I think I pretty much did and I agree with what Commissioner Alcheck
23 just said is that it's kind of shows the concern around that and I don't think that there is... I
24 never want to obviate our responsibility but, in this case, we spent a long time debating it,
25 studying it at three hearings and this is what we're coming out.

26

27 Chair Templeton: Ok. Please raise your hand if you want to speak to this motion before we
28 vote. Commissioner Summa.

29

30 Commissioner Summa: Ok, I'm not on mute. I was a little unclear about the actual wording of
31 the motion and I think it would be... if Commissioner Alcheck could repeat it. I would be most
32 comfortable if it was just general and said inconsistent with the Zoning Ordinance, but I'm not
33 sure exactly what he wants.

34

35 MOTION #9 RESTATED

36

37 Commissioner Alcheck: I can try one more time to repeat it (interrupted)

38

39 Commissioner Summa: Thanks.

40

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1 Commissioner Alcheck: Because maybe that would help get a second. My motion would be that
2 we recommend that the City Council review the second Finding in the absence of a majority
3 recommendation by the Commission because the Commission was unable to secure a majority
4 agreement. Specifically, with respect to the issue of the consistency that the parking facility has
5 with the Zoning Code. And the reason why I would suggest that would be the way to go is
6 because it creates clarity for the Commission on the precise thing that really divided this
7 discussion and it moves the item onto them.

8
9 Chair Templeton: Thank you. Commissioner Lauing, that wording is still fine with you as the
10 seconder? Excellent. So, Commissioner Summa, back to you.

11
12 Commissioner Summa: No, I don't have any other comments. Thanks.

13
14 Chair Templeton: Ok, great. Commissioner Hechtman.

15
16 Commissioner Hechtman: Really a request for a clarification in the motion that Commissioner
17 Alcheck has just described and Commissioner Lauing has seconded. What if anything happens
18 to any of the five changes that were part of the last motion that deadlocked at 3-3?

19
20 Commissioner Alcheck: So, I would have preferred to, what I would call edits that you made, to
21 be incorporated into the Finding and, but I would suggest to you is that I think Staff would edit
22 that Finding to be... to incorporate those statements, but I think even if they don't. Basically,
23 what this motion is asking the Council to do is to review the discussion we just had and my
24 hope is that they would look at the discussion we just had and say why did this get held up?
25 Why couldn't they come to a conclusion and I think what they would see that it wasn't because
26 of the edits that you made in particular. I think it was because they couldn't build consensus
27 among six people regarding the consistency of a parking facility not having counted FAR and
28 being underground in an R1 neighbor.

29
30 Chair Templeton: I don't have a problem including those edits. They are not... they're correcting
31 errors. You'd have to check with your seconder Commissioner Alcheck. Commissioner Lauing, is
32 that ok?

33
34 Commissioner Alcheck: Well, it's not... I'm not making that Finding. So, I'm actually not making
35 a Finding here, right? I'm suggest (interrupted)

36
37 Chair Templeton: Ok, hold [unintelligible]. Hold on just a second. (interrupted)

38
39 Commissioner Alcheck: Maybe if you could have someone read it back to you.

40

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1 Chair Templeton: Is there another way for Commissioner Hechtman... I'm asking Staff. Is there
2 another way for Commissioner Hechtman to incorporate his edits if we make... if we vote on
3 this motion and it passes? Can he then make another motion to incorporate his edits or no?
4

5 Mr. Yang: He can and I don't think it's necessary. His suggestions are straightforward and well
6 taken so we'll work with them. [unintelligible – audio cut out] (interrupted)
7

8 Chair Templeton: Commissioner Hechtman, are you satisfied with that?
9

10 Commissioner Hechtman I am. Thank you.
11

12 VOTE
13

14 Chair Templeton: Ok, great. Alright, any more hands? Any more discussion before we vote?
15 Alright, I appreciate this... I'll give my comment, and then we'll go to a vote. I appreciate this
16 motion and I think it's the right thing to do. We do have concerns about this area and we have
17 had them for months. We've discussed them every time it's come up before the PTC and really,
18 we've done as much as we can to bring light to it and it's now going to go on to Council with
19 these comments. So, I appreciate the chance to share the concerns and the observations and
20 also to send it forward because it has been a long time waiting, this project has. So, ok, let's
21 please conduct the vote, Mr. Nguyen.
22

23 Mr. Nguyen: Commissioner Alcheck?
24

25 Commissioner Alcheck: Aye.
26

27 Mr. Nguyen: Commissioner Hechtman?
28

29 Commissioner Hechtman: Yes.
30

31 Mr. Nguyen: Commissioner Lauing?
32

33 Commissioner Lauing: Yes.
34

35 Mr. Nguyen: Commissioner Riggs is absent. Vice-Chair Roohparvar?
36

37 Chair Templeton: We couldn't hear you Vice-Chair.
38

39 Vice-Chair Roohparvar: Sorry, yes. I'm talking to myself again. Sorry, yes.
40

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1 Mr. Nguyen: Commissioner Summa?

2

3 Commissioner Summa: Yes.

4

5 Mr. Nguyen: Chair Templeton?

6

7 Chair Templeton: Yes.

8

9 Mr. Nguyen: Ok, the motion carries 6-0-1.

10

11 MOTION #9 PASSED 6(Alcheck, Hechtman, Lauing, Roohparvar, Summa, Templeton) -0- 1(Riggs
12 absent)

13

14 Chair Templeton: Thank you very much. Alright, it is 10:20. It's time for a check-in. We do still
15 have Variance Findings. It is just two pages. We've heard from one of our Commissioners that it
16 is... oh, I don't know which one I'm looking at. Commissioner Alcheck said that he anticipates
17 having limited comment on this and that we might be able to complete it tonight, but I'd like to
18 hear from the other Commissioners briefly. Think like 1-minute or less about whether you want
19 to continue this discussion and potentially finish this item tonight. So, Commissioner Hechtman
20 followed by Vice-Chair Roohparvar.

21

22 Commissioner Hechtman Alright, I meant to... my hand was up from earlier, but (interrupted)

23

24 Chair Templeton: Now it's you.

25

26 Commissioner Hechtman: Yeah, I guess so, so I've got more than 60-seconds worth of
27 comments on the Variance Findings.

28

29 Chair Templeton: Oh, that's ok. Just kind of approximate how much you have in 1-minute or
30 less.

31

32 Commissioner Hechtman Oh, approximately 3- to 4-minutes.

33

34 Chair Templeton: Ok, that's fine. That's good. Alright, Vice-Chair Roohparvar?

35

36 Vice-Chair Roohparvar: Very limited comments. I think I can wrap this up tonight if everyone
37 else can too.

38

39 Chair Templeton: Alright, Commissioner Summa, Commissioner Lauing, would you like to chime
40 in?

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Commissioner Summa: Go ahead.

Commissioner Lauing: I think 10-minutes depending on how much detail folks want to go into.

Chair Templeton: Alright.

Commissioner Lauing: But I'd like to get 5-minutes before we do this.

Chair Templeton: Well, let's do that. You're up. Do it. Commissioner Lauing.

Commissioner Lauing: No, I was saying I would love to get a 5-minute break before we start.

Vice-Chair Roohparvar: Yeah. Yes.

Chair Templeton: Oh, 5-minute break. Thank you for clarifying that. You can see I am also very tired at this time of night. So, sounds like we're prepared to continue. Let's be back with cameras on by 10:28 and we'll have a little buffer there and we can start our meeting as soon as everybody arrives that should be no later than 10:30. Ok, see you all in a few.

Commissioner Lauing: Great.

[The Commission took a short break]

Chair Templeton: Welcome back everybody. Commissioner Hechtman and Vice-Chair Roohparvar, do you still have your hands up, or is that from a previous? Let me know if you're queuing. Alright. Alright, we are almost all here so once we have everyone returned. I think that's every... all the Commissioners at least. It looks like everybody managed to get a snack. That's good. Alright, so our queue is clear. Please raise your hand if you would like to speak next and I will go in order.

Commissioner Summa: I'll go if no one else wants to go first.

Chair Templeton: I was going to say you guys wanted to continue going tonight so let's see that energy.

Commissioner Summa: No one wants to go first. I'll go first.

Chair Templeton: Thanks, Commissioner Summa.

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1 Commissioner Summa: Do you want to do them one at a time? Is that... the Variances Findings,
2 do you want to do them one at a time?

3
4 Chair Templeton: That worked pretty well on the last one so if you want to we could do that
5 model.

6
7 Commissioner Summa: Ok so Variance Finding Number 1. I cannot make this in that I do not
8 think... well, I'll go down the bullet points. I think the first bullet point which says because it's
9 such a big lot, the lot size, it can't support the physical requirements of a private school and it
10 was not created with Conditional Permitted private school uses in mind. I can't... I think the
11 amount of time that Castilleja has successfully been there and the 100s and 100s of people that
12 we've heard from who say how great the school is, makes that bullet point kind of hard to
13 swallow.

14
15 I sent you all and this is probably my colleagues that are land use attorneys know the Topanga
16 Case inside out, but it is... it was brought up 2-years ago actually by the attorney for the
17 concerned neighbors, or the neighbors that oppose the project. And in reading it, it makes it
18 very clear that the size of the lot is... cannot be taken into consideration for a Variance and I
19 also find that... I do not find that the school is harmed by the size of the lot. And I am very
20 concerned that giving them a higher FAR than all the other R1 lots around them and around the
21 City will create unfairness. And in fact, it's kind of goes into the second Finding but it's relevant
22 to both. I find that everybody would want, when redeveloping, would want that FAR so I cannot
23 make Finding Number 1.

24
25 Chair Templeton: Alright, I liked Commissioner Summa's suggestion that we all chime in about
26 Finding Number 1 and then around to the next one after we've discussed that. So, would
27 anyone else like to chime in on Finding Number 1? Please raise your hand. Commissioner
28 Lauing.

29
30 Commissioner Lauing: Yes, I will. I found this admittedly very complex and I had to go through it
31 a lot of times in the last two meetings, but in general, I agree with what Commissioner Summa
32 has said and in the last point there that I don't think she specifically comments on. It seems like
33 they wanted certain special circumstances because they were a school and then at the end,
34 they wanted special circumstances because they're not like other property owners at only
35 10,000. So, I thought that that last question about depriving Castilleja School of privileges
36 [unintelligible] was not accurate. Obviously, there are no schools there and therefore it's kind
37 of almost even creates a precedent for other people with 10,000-square foot lots. So, the... it's
38 just... it's too difficult for me to make this Finding.

39

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1 Chair Templeton: Thank you, Commissioner Lauing. I would love to hear a little bit from Staff on
2 this. I also was kind of hung up on this bullet. I don't know how it's detrimental to Castilleja and
3 if the subsequent sentences to that phrase is explaining it. It's not quite coming through. Does
4 anyone from Staff want to speak to that a little bit more to help us understand the rationale?
5

6 Ms. Tanner: Certainly. I'll look to Amy French who's been leading the project and Director Lait
7 who's been supporting her to help explain that. And maybe you can also remind the Packet
8 Page you're on so we can make sure that they're looking at the same version and (interrupted)
9

10 Chair Templeton: 28.

11
12 Ms. Tanner: Same bullet points that you are.

13
14 Chair Templeton: Page... Packet Page 28. Thank you so much.

15
16 Ms. Tanner: Great and I saw Albert come on. Did you want to address that?
17

18 Mr. Yang: I just had a... wanted to clarify, is it to the first bullet that you're asking about?
19

20 Chair Templeton: I'm personally asking about the third bullet that says the extreme disparity in
21 lot is detrimental to Castilleja School.
22

23 Mr. Yang: Yeah so, I think the concept that's being reflected in the Finding there is that because
24 the R1 FAR regulations have a lower FAR for square footage and of lot size over the first 5,000-
25 square feet. When you have a very large lot, a greater percentage of your lot is subject to that
26 lower .3 FAR. So, if you had a 10,000-square foot lot which is the standard in that district then
27 half of your lot would be... would have a FAR of .5... .45, and half of the lot would have a FAR of
28 .3, but when you have a lot that is 27 times that size. A much greater, almost the entire lot is
29 subject to a .3 FAR in reality as opposed to the [unintelligible].
30

31 Chair Templeton: How does that reconcile though with Castilleja previously being two lots with
32 a public right of way in between and taking over the public right of way and becoming the on
33 big lot? That was their choice, right?
34

35 Mr. Yang: Yes, it was, but that also... that occurred before a FAR even existed in the R1 District.
36

37 Ms. French: Correct.
38

39 Mr. Yang: So, at that time there was no implication of their doing that for on what they could
40 develop.

-
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1
2 Chair Templeton: There was no implication on what could be developed from when they went
3 from two smaller lots to one big lot? But you just said that that's (interrupted)
4
5 Mr. Yang: Right. [unintelligible] (interrupted)
6
7 Chair Templeton: The definition of it.
8
9 Mr. Yang: [unintelligible – crosstalk]
10
11 Ms. French: There was no FAR in place.
12
13 Mr. Yang: There was no FAR in place at that time at all.
14
15 Ms. Tanner: So, there would have been no way at that time they could have known well, if we
16 do this then in the future this FAR will apply because that was just not part of the structure of
17 the way we regulate it at that time when the [unintelligible – crosstalk]
18
19 Commissioner Alcheck: Do you mean FAR limit?
20
21 Mr. Yang: Right, there was no FAR limit.
22
23 Chair Templeton: Ok.
24
25 Ms. Tanner: Sorry.
26
27 Chair Templeton: Thank you for clarifying. Yeah, it's late and when did that change to the
28 parcels occur? I didn't think it was that long ago. Did we not do that [unintelligible]
29 (interrupted)
30
31 Ms. French: 1992.
32
33 Chair Templeton: We didn't do FAR in 1992?
34
35 Ms. French: Oh, we put... FAR became a thing in the R1 District in 1998. The parcels were
36 merged in 1992 with the abandonment of that easement on Melville.
37
38 Chair Templeton: Ok, interesting. So, it's the claim here in this bullet is that it's detrimental for
39 them to have an oversized lot because they can't use it all, but they brought... they brought all

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1 this stuff together but they didn't know the implications at the time because of FAR not
2 (interrupted)

3
4 Ms. Tanner: Without the FAR limit at that time. Well, in the scenario that you're are suggesting
5 is that the FAR... you're suggesting that they could have thought about it ahead of time but they
6 couldn't have pre-thought that there would have been a limitation that's currently in place.

7
8 Chair Templeton: That helps me understand. Alright, thank you. Let's see who's the next
9 speaker. No hands up. Oh, there they are. Commissioner Lauing, Commissioner Alcheck, Vice-
10 Chair Roohparvar. Commissioner Lauing, you have the floor.

11
12 Commissioner Lauing: Oh, I'm sorry, I left my hand from when I spoke earlier. Sorry.

13
14 Chair Templeton: Ok, Commissioner Alcheck followed by Vice-Chair.

15
16 Commissioner Alcheck: I hate to put you on the spot, but I am awaiting Commissioner
17 Hechtman's 3- to 4- minutes of comments because as I said earlier, I don't have comments on
18 these items. Particularly, I have no reservations about making this first Finding and I want to
19 suggest that the FAR discussion we just had is actually incredibly illuminating because it's the
20 neighbors essentially can on average occupy half of their lot, right? That's essentially what
21 we're saying here and if you apply the same standard. Then this parcel can't occupy even...
22 what did you say, 1/27th of its lot? That's a significant discrepancy, or I shouldn't say 1/27th. It
23 would have been 1/13th if you will. Actually, I don't even know if that's right. It's probably a
24 graded scale up to like 1/10th, but the point there is that I'm prepared to make these Findings.

25
26 I imagine based on past experience of this that there are some comments that Commissioner
27 Hechtman might want to make and I'd be interested in hearing those because I believe that if
28 that if he makes a motion I can support it. So, I feel that same way about the other Findings
29 here and I would wonder if when he described his 3- to 4-minutes of comments whether they
30 applied to all four of the Findings. And if they did I would... I implore the Chair to allow him to
31 have a discussion about all four and then if you wanted to one motion at a time, which is how
32 we did the last thing, then we could do that. But we did actually discuss the breadth of the
33 Findings in one section and then we voted on them one at a time. I think that would be a better
34 use of time.

35
36 Chair Templeton: Sure, that's a great suggestion. You guys can talk about whatever you want to
37 talk about. You get 5-minutes each so that's fine with me. Vice-Chair Roohparvar.

38
39 Vice-Chair Roohparvar: Sure. City Attorney Yang's explanations always resonate with me. I can
40 definitely make this Finding after hearing City Attorney Yang explain. It makes complete sense

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1 to me. Variance are typically where similar lots are treated differently and in this case, it's clear
2 to me that Castilleja is. Usually, it's interesting because you have a lot with an irregular shape or
3 size and that's why they're treated differently and you see Variances; or when we saw that
4 property come up because of the tree setback. In this instance, it's the greater size because
5 they can't take advantage of the FAR proportionately impacts them more than it would a
6 smaller lot which can go like .45 and then .3 for a small remaining piece. Here that .3 applies to
7 such a huge swath so to me, it feels like... I mean this is... it makes sense why a Variance for that
8 first one makes sense to me, so I would be supportive.

9
10 Chair Templeton: Thank you. Just a quick clarification Mr. Yang. Is the understanding here that
11 when these ratios were designed that there wasn't an anticipation of a property with a lot this
12 size?

13
14 Mr. Yang: That's essentially, I think what we are... what we're saying is that our Zoning
15 Regulations are made with 90 percent of cases in mind and Variance exist for the other 10
16 percent.

17
18 Chair Templeton: But you did say that the ratios were implemented after Castilleja merged the
19 parcels.

20
21 Mr. Yang: Yes.

22
23 Chair Templeton: So, it wasn't that they couldn't anticipate it. They were just expecting
24 Variances to be requested.

25
26 Mr. Yang: Right, I guess it's not that we couldn't have possibly conceived of it. It's that we don't
27 write the rules to cover every edge case.

28
29 Chair Templeton: Thanks. Commissioner Hechtman.

30
31 Commissioner Hechtman: Alright, thank you, Chair Templeton. So, I do have some prefatorily
32 remarks generally regarding Variances before I get down to the Findings and some of this is
33 reacting to a lot of things that I've heard not just tonight, but really along the whole course
34 from the neighbors and as well as other Commissioners.

35
36 So, first I want to clarify that Variances do not involve a comparison to other properties where a
37 Variance was granted. In fact, the opposite is true. The Variance process asks whether the
38 Variance is needed to put the property on equal footing with uses within the vicinity that were
39 developed without the need for a Variance. And so that's why this FAR discussion we just had is
40 irrelevant there because the point is that the house across the street can build to a FAR of .42

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1 with no Variance, but Castilleja can't because of this I believe unintended consequence of the
2 scaling back of the FAR on a magna scale.

3
4 Next, I want to clarify that there are provisions at the beginning of the Variance Section in
5 18.76.030a. Those are an expression of purpose and intent of the Variance process, but they
6 are not Findings required for the Variance. The four Findings are listed in subpart b of the
7 ordinance and those are the Findings that we're looking at in Attachment A to the Staff Report
8 on Packet Pages 28 and 29. So, consequently, while the discussion and some of the
9 correspondence regarding the term substantial hardship, which you'll find in our ordinance in
10 subpart a, may be intellectually interesting, it's not controlling because hardship is not a
11 required element of any of the four Findings we have to make. And for what it's worth, I think it
12 is a substantial hardship if the price you have to pay for the laudable effort of modernizing your
13 legal building is to lose a significant part of the capacity of that building. Here the Variance that
14 is being sought preserves Castilleja's substantial property right to retain its existing, entirely
15 legal countable square footage.

16
17 I did look at the Walnut Acers Case that was cited in the letters from both attorneys and I really
18 don't think it's applicable here. It's not a Variance case. In that case, the City of LA had a
19 Variance Ordinance that did require a hardship Finding and a different ordinance regarding a
20 particular kind of permit that had the same hardship Finding requirement. The City granted a
21 permit under the second ordinance and the lawsuit was about the granting of that permit.
22 Unlike the Los Angeles's Ordinance that required a hardship Finding, Palo Alto's Variance
23 Ordinance does not, or nor do the state law Variance Findings on which Palo Alto's Findings 1
24 and 2 are based. And while we're talking about cases, let me just mention Topanga for a
25 minute. I'm very familiar with that because it's the... it's really the starting point of Variance
26 cases, but it's not the ending point. And what... how... in Topanga, the... three things. First,
27 Topanga does not say that you can't count size... you don't look at size. In fact, it's the opposite.
28 If you look at Our Finding Number 1, you are supposing to look at size, and the reason that is in
29 our Finding Number 1 is because that's what's in state law. State law specifically contemplates
30 that size is a factor. What Topanga said is that size isn't the only factor. You can't just say ok
31 because your large, that alone is sufficient. It's one factor among many. Second, the problem in
32 Topanga, which was a very early case in the Development of Finding... of Variance Law was that
33 the City there didn't make Findings and here, you know, we're wrestling now with the factual
34 Findings. So, that's not an issue here and finally, in Topanga, the issue was what to do with a
35 vacant piece of property. That's not our issue here. They're not seeking a Variance to build on
36 an undeveloped land square footage. They are looking to retain square footage that existed
37 before the codes and now would be limited by the codes. So, it's a very different factual
38 situation from Topanga.

39

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1 So, and my last prefatorily comment is that... and this really ties into something Commissioner
2 Alcheck said earlier... that even if it's not explicitly in our Zoning Code, it is littered in the case
3 laws that look at this issue. The purpose and intent of limitations on Floor Area Ratio and Gross
4 Floor Area are to address visible bulk and mass. That's why in Palo Alto and virtually every other
5 jurisdiction below-grade facilities, including residential basements, aren't counted in measuring
6 FAR and Gross Floor Area because they don't contribute to visible bulk and mass. You can't see
7 them, they don't have a visual impact.

8
9 Alright, so turning to Finding Number 1 and I... let me just focus on Finding Number 1 because
10 that's all that we're talking about right now. I think the key special circumstance applicable to
11 this property and related directly to the Variance request is the existing 116,000-square feet of
12 building. Variance law is clear that you consider the built environment as well as the natural
13 environment and because of that, the question we're facing on this Variance is not can the
14 school get 113,000-square feet that did not previously exist, but rather can the school keep
15 113,000-square feet that did. So, with the addition of that recognition of the additional... the
16 existing square footage as I guess a fourth bullet and then a minor change that I proposed to
17 the third bullet which just adds the words lot up to, to make it factually more correct, then I
18 think Finding 1 is adequate and supported by substantial evidence and I can make that Finding.

19
20 Chair Templeton: I don't see any hands up to follow you so if you do want to speak please raise
21 your hand. I like the idea of adding that fourth bullet. I think that's very compelling and I that
22 would bring me into support of Variance Finding Number 1. It is important to be able to replace
23 the existing building so that's why I see what you're getting at there. So, thank you and also for
24 the background. Commissioner Summa.

25
26 Commissioner Summa: Thank you. So, a couple of things and one is we had pretty compelling
27 information in a communication from a member of the public and supplied by City documents
28 saying that the actual existing square feet to be replaced is 99,831; which I... which is over what
29 the FAR would allow which is at 81 and some change number. and I'm absolutely in favor of
30 allowing them to keep all that, but I would really like a really clear explanation of this new
31 information and I wasn't able... this just came to us the last couple of days I think. So, I don't
32 feel that the last bullet would be appropriate at all and it doesn't help me to agree with this if
33 what's being replaced is actually, should be 99 and not 115 or 113, 000. So, that's a problem for
34 me and I do know that our code does... our code about Variances... and I'm not going to argue
35 with a land use attorney about Topanga Canyon, but just that other land use attorneys don't
36 necessarily agree I think. Including one that has communicated with us, but I still am not
37 convinced that bullet 1, 2, and 3 and even the new proposed bullet is actually... I mean I'm not
38 saying we have definitive information about the 116 is all I'm saying.

39

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1 And I do want to note that you cannot grant a Variance for a condition on a property that was
2 made by the owner or previous owner, so I don't see it as a hardship. I see... you know, of
3 course, they have to be... if they want to be a school, which is a conditional use in R1, of course,
4 they're going to probably be in a larger property unless they are a very small school. We have
5 some of those too so.

6
7 Chair Templeton: Thank you, Commissioner Summa. I see Commissioner Roohparvar [note –
8 Vice-Chair Roohparvar] and Hechtman have their hands raised. Are those historic? Any other
9 Commissioners wish to speak? Commissioner Alcheck.

10
11 Commissioner Alcheck: I'd love to hear Commissioner... Bart's [note – Commissioner Hechtman]
12 thoughts on Condition 2, 3, and 4 so that I can make a motion on Condition 1. So, if that's
13 alright I think it would be beneficial to have those comments.

14
15 Chair Templeton: I appreciate that. I would also say that while (interrupted)

16
17 Commissioner Alcheck: I say that because I have no additional comments to make on 2, 3, and
18 4.

19
20 Chair Templeton: We did... I think that's fine. I just want to let you know because you
21 mentioned this, that people still did have comments even though we did it in a different order
22 last time. So, it's going to be a wash either way. Don't stress out about it. We're going to get to
23 it. Commissioner Summa, you just went so I'm guessing that's a legacy hand-up. Commissioner
24 Alcheck, you just went. Commissioner Lauing, Commissioner Hechtman, raise your hand if you
25 want to speak. Commissioner Hechtman. Feel free to discuss whatever you want to discuss.
26 We're not constrained.

27
28 Commissioner Hechtman: Ok, I'm... oops, uh oh. Now I've lost the video here so I hope I can
29 find you again. There you are. Alright, I'm... yeah, I don't have anything further to say on Finding
30 Number 1 and so let's go through the other Findings, and actually I don't have a lot of
31 comments on those.

32
33 Finding Number 2, I had proposed a couple of minor changes. The addition of the word visually
34 at the bottom of Packet Page 28 so it says most visually impactful because that's really what the
35 focus of that sentence is. And then deleting the provision about below-grade building area
36 because that's not under our code part of Gross Floor Area to basically make it consistent and
37 so with those two changes I didn't have any more changes. I think it would be adequate and
38 supported by substantial evidence.

39

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1 Going to Finding Number 3, if you look at the language of Finding Number 3, it's... frankly, it's
2 almost a mirror image of Finding Number 2 in the Conditional Use Permit where we deadlock 3-
3 3. And so, my suggestion there had been that I think whereas we had some good detail in
4 Conditional Use Permit Finding Number 2, here we've kind of short-circuited it and basically
5 made a reference to the CUP Finding above, but I really think the Variance Finding needs to
6 stand on its own. So, my request was that let's move Variance Finding... Condition... CUP
7 Finding Number 2 in its entirety, which I had intended to include the changes I had proposed
8 which again, I didn't think those were controversial as much as the overall concept was, but
9 incorporate and move that whole thing and put it here for Condition Number 3. That had been
10 my proposal and then additional, I think again, the purpose of making the Findings is to give a
11 clear record of the thought process behind the Finding. And so, part of what I think we need to
12 add here, in addition to copying everything from CUP Condition 2, we need an analysis here
13 explaining why below-grade facilities are not included in GFA and that explanation frankly, can
14 be drawn from the September 9th Staff At Place Memo where it's addressed.

15
16 Finally, in Condition 4 I had proposed the deletions of an extra and, and then reference of the
17 clause with a lower FAR than the existing building being moved... buildings being removed and
18 with those two factual, or one is a typo change I think, I think that the Finding is adequate and
19 supported by substantial evidence. Those are my comments.

20
21 Chair Templeton: Thank you, Commissioner Hechtman. I have a question for Staff, so this
22 section it's just talking about Gross Floor Area. Is that correct? Is that how we can... in other
23 words, is that a different lens through which to look at Finding Number 3?

24
25 Ms. French: Well, the only Variance it's requested is Gross Floor Area. I might be not
26 understanding what you're saying.

27
28 Chair Templeton: So, this is replacement of Gross Floor Area and it's talking... Commissioner
29 Hechtman brought up that it's talking specifically about replacing buildings. And I'm just trying
30 to understand if there is a substantial difference between the lens through which to look at the
31 Item Number 3 (interrupted)

32
33 Ms. French: I see.

34
35 Chair Templeton: You know, if (interrupted)

36
37 Ms. French: Different code sections. Different code sections. Replacement of non-complying
38 Gross Floor Area that exists with replacement floor area is a different section of the code than
39 the section that is Floor Area Ratio.

40

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1 Chair Templeton: Ok and is it a different section than the underground facility?
2

3 Mr. Yang: So, I guess to the extent that when considering CUP Finding Number 2, you or other
4 Commissioners may have had a concern not only whether or not the FAR for the underground
5 parking facility should count, but also, it's location underground and not under a building
6 footprint. You wouldn't be considering location and... with this Finding. It would just be
7 (interrupted)
8

9 Chair Templeton: Thank you. I wanted to be consistent as I have shared that's important to me
10 so location in the Variance Finding for replacement of Gross Floor Area, Item Number 3, is not
11 considering location.
12

13 Mr. Yang: Correct.
14

15 Chair Templeton: Is that correct?
16

17 Chair Templeton: Ok, thank you for clarifying. Commissioner Summa. Commissioner, you're
18 muted.
19

20 Commissioner Summa: So, I guess we're not going one by one. We're talking about all of them,
21 so I'll just go through the rest and I did want to say that the parking... underground parking
22 structure also does not meet the definition of basement in our code and that has been
23 demonstrated. So, that's one thing, and it's basement that doesn't count in R1.
24

25 So, I... back down to Finding 2, I think this does grant a special privilege to this property that it
26 will not be available to others and that is that they get to develop to a much higher FAR. And I
27 think that's a special privilege and I think it also will create a headache potentially when other
28 R1 property owners want the same privilege to develop their entire property at the higher FAR.
29 So, I think that is a special privilege.
30

31 I... 3 I can't make for the same reason that I couldn't make in the other because... in the CUP
32 Findings because I don't think it's consistent across the board with our Zoning Ordinance.
33

34 And 4 is also one of the Findings that's almost the same as CUP Finding and I find that enough
35 people have made an argument that their general welfare and/or convenience has been... will
36 be affected by this. That I can't really make that Finding and I do think... I'll just say this one last
37 time. I do think we need a clarification of the total Gross Floor Area that will we'll be replacing,
38 but I do believe that what is there, they should be able to replace. There's a big question about
39 what it is. Thanks.
40

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1 Chair Templeton: Thank you so much. Alright, I do not see more hand raised. Ah, there you are.
2 Commissioner Lauing, please speak.

3
4 Commissioner Lauing: Just briefly, I'm not trying to repeat, but Item 2 definitely seems like a
5 special privilege to me and I'm just concerned that in the bullet points we might not even have
6 the correct square footage. So, I'm just not sure the 110 is correct or the 113.

7
8 Anyway, on 3, I think that this is probably another 3-3 vote if we're going to stay consistent on
9 that. My problem here again is with the current zoning potential violations, not the
10 Comprehensive Plan which I think is fine.

11
12 And the 4th one to me is still tied to the high risk we're taking with the current number of
13 students allowed to be enrolled which is the request from the school. And a lot of this kind of
14 marketing copy below there I don't find very helpful in explaining the reason for it so those are
15 my comments.

16
17 Chair Templeton: Thank you, Commissioner Lauing. Anyone else?

18
19 Commissioner Alcheck: I'd like to second a motion.

20
21 Chair Templeton: Yeah, exactly.

22
23 Commissioner Alcheck: But I think I shouldn't be the one to make it since those edits I think
24 would come better from someone else.

25
26 Chair Templeton: Oh look, Commissioner Hechtman's hand just went up. Please, you have the
27 floor, sir.

28
29 MOTION #10

30
31 Commissioner Hechtman: Alright, thank you. I will make a series of motions. I think it's going to
32 be best here to do these serially, although I think I'm going to hold 3 to the end because we
33 might end up talking about that. Well, we can talk about anything. In any event, I'm going to
34 make a motion that the PTC recommend to the City Council Staff's recommended version of
35 Variance Finding Number 1 with two changes. First adding the words lot up to before the
36 19,999-square foot figure in the third bullet and second adding a fourth bullet that... I'm sorry, I
37 got a hit my... fourth bullet describing as one of the special circumstances that the property
38 currently contains 116,000... I'd like the... here it is. The 116,297-square feet of existing legal
39 countable GFA.

40

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1 SECOND

2

3 Commissioner Alcheck: Second.

4

5 Chair Templeton: Alright, any discussion?

6

7 Commissioner Hechtman: Yeah, I would like to speak briefly to the motion just in terms of the
8 square footage issue. I heard pretty clearly from Staff what I found to be a very sufficient
9 explanation of the accuracy of that figure and the other figures that had been provided in the
10 letter we had received earlier today even though they were in City documents.

11

12 Chair Templeton: Alright, anyone else?

13

14 Commissioner Alcheck: I concur with his statements.

15

16 VOTE

17

18 Chair Templeton: Ok. Alright, Mr. Nguyen, would you please conduct the vote?

19

20 Mr. Nguyen: Commissioner Alcheck?

21

22 Commissioner Alcheck: Aye.

23

24 Mr. Nguyen: Commissioner Hechtman?

25

26 Commissioner Hechtman: Aye.

27

28 Mr. Nguyen: Commissioner Lauing?

29

30 Commissioner Lauing: Nope.

31

32 Mr. Nguyen: I'm sorry was that a no?

33

34 Commissioner Lauing: It was a no.

35

36 Mr. Nguyen: Commissioner Riggs is absent. Vice-Chair Roohparvar?

37

38 Vice-Chair Roohparvar: Yes.

39

40 Mr. Nguyen: Commissioner Summa?

-
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Commissioner Summa: No.

Mr. Nguyen: Chair Templeton?

Chair Templeton: Yes.

Mr. Nguyen: Great, the motion carries 4-2-1.

MOTION #10 PASSED 4(Alcheck, Hechtman, Roohparvar, Templeton) -2 (Lauing, Summa) - 1(Riggs absent)

Chair Templeton: Thank you very much. Back to you Commissioner Hechtman.

MOTION #11

Commissioner Hechtman: Thank you. I'd like to make a motion that the Planning Commission recommend to the City Council Staff's recommended version of Variance Finding Number 2 with the following changes. In the first paragraph after the two bullets, second line, adding the word visually after which is most so it reads which is most visually impactful; and then later on in that paragraph after outdated buildings, a comma, add the word and; and then continuing in that line after Gross Floor Area delete the language and provision of below-grade building area.

SECOND

Commissioner Alcheck: I will second that.

VOTE

Chair Templeton: Any discussion? Variance Finding Number 2. Alright, Mr. Nguyen, please conduct the vote.

Mr. Nguyen: Commissioner Alcheck?

Commissioner Alcheck: Aye.

Mr. Nguyen: Commissioner Hechtman?

Commissioner Hechtman: Yes.

-
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1 Mr. Nguyen: Commissioner Lauing?

2

3 Commissioner Lauing: No.

4

5 Mr. Nguyen: Commissioner Riggs is absent. Vice-Chair Roohparvar?

6

7 Vice-Chair Roohparvar: Yes.

8

9 Mr. Nguyen: Commissioner Summa?

10

11 Commissioner Summa: No.

12

13 Mr. Nguyen: Chair Templeton?

14

15 Chair Templeton: Yes.

16

17 Mr. Nguyen: Ok the motion carries 4-2-1.

18

19 MOTION #11 PASSED 4(Alcheck, Hechtman, Roohparvar, Templeton)- 2(Lauing, Summa)-
20 1(Riggs absent.

21

22 Chair Templeton: Thank you. Commissioner Hechtman.

23

24 MOTION #12

25

26 Commissioner Hechtman: Thank you. Moving to Variance Finding Number 4, I move that the
27 PTC recommend to the City Council Staff's recommended version of Variance Finding Number 4
28 with the following two changes. At the end of the first line, delete the word and, and in the
29 second line after building add a comma and then add with a lower FAR than the existing
30 buildings being removed. And I'm pausing because I think I need clarification from Staff and
31 perhaps from Mr. Yang if in the context of this Variance I should... we should be referring... my
32 motion should be referring to GFA rather than FAR.

33

34 Ms. French: I can say that it's both. It's lowering the GFA and the FAR.

35

36 Commissioner Hechtman: So, then that's what I would like my motion. With a lower FAR and
37 GFA than the existing buildings being removed.

38

39 SECOND

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-
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1 Commissioner Alcheck: I will second that.

2

3 Vice-Chair Roohparvar: Ok.

4

5 Commissioner Alcheck: Oh, go ahead. No, no, no.

6

7 Vice-Chair Roohparvar: No, it's ok. I'll second that.

8

9 VOTE

10

11 Chair Templeton: Alright, thank you. Any discussion on Variance Item Number 4? Finding
12 Number 4? Alright, Mr. Nguyen please conduct a vote.

13

14 Mr. Nguyen: Commissioner Alcheck?

15

16 Commissioner Alcheck: Aye.

17

18 Mr. Nguyen: Commissioner Hechtman?

19

20 Commissioner Hechtman: Yes.

21

22 Mr. Nguyen: Commissioner Lauing?

23

24 Commissioner Lauing: No.

25

26 Mr. Nguyen: Commissioner Riggs is absent. Vice-Chair Roohparvar?

27

28 Vice-Chair Roohparvar: Yes.

29

30 Mr. Nguyen: Commissioner Summa?

31

32 Commissioner Summa: No.

33

34 Mr. Nguyen: Chair Templeton?

35

36 Chair Templeton: Yes.

37

38 Mr. Nguyen: Ok the motion carries 4-2-1.

39

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1 MOTION #12 PASSED 4(Alcheck, Hechtman, Roohparvar, Templeton) -2(Lauing, Summa) -
2 1(Riggs absent)

3
4 Chair Templeton: Thank you. Commissioner Hechtman.

5
6 MOTION #13

7
8 Commissioner Hechtman: Thank you. Turning finally to Variance Condition Number 3. I'm
9 pausing here because... well, maybe I shouldn't. Maybe I'm going to over complicate it. I move
10 that... well, let me just put it out there. I move that we replace Staff's recommended language
11 for Variance Finding Number 3 with the language provided for CUP Finding Number 2, including
12 the five changes that I proposed in the motion that deadlocked. Plus, in addition, for Staff to
13 provide a statement explaining why below-grade facilities are not included in GFA based upon
14 the explanation provided in the September 9th Staff At Place Memo.

15
16 SECOND

17
18 Vice-Chair Roohparvar: I'll second that.

19
20 Chair Templeton: Can you clarify if you are starting with language only, or is it all together?

21
22 Commissioner Hechtman: Well, I would like... I paused because that was my initial thought to
23 do it that way and I would actually like to.

24
25 Chair Templeton: I think you should.

26
27 Commissioner Hechtman: So, that we can... it will be a little bit clearer. If this ends up going...
28 being deadlocked, I don't know that it will be but if it is, I think it's cleaner submit to the Council
29 if these what I think are non-controversial language changes are part of that, and then they can
30 see we deadlocked and why we did it. So, maybe I could get a little guidance from Mr. Yang on
31 how to... I think the way we would do it is the way we did the first motion for conditions which
32 is this is a non-exclusive list of changes we're going to make to this condition which we're not
33 yet approving.

34
35 Mr. Yang: Yeah, I think that would be fine. I think if you could structure the motion to
36 recommend the following changes to the language, but not include a recommendation on
37 Finding... on the Finding, making the Finding itself.

38
39 Chair Templeton: Do you want... Commissioner Hechtman, do you want to bake in those
40 changes to that Finding Number 2 as well?

-
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Commissioner Hechtman: I'm not understanding your question.

Chair Templeton: The changes that you're proposing for Variance Finding Number three to be brought over from CUP Finding Number 2 were never implemented in Number 2.

Commissioner Hechtman: Yes.

Chair Templeton: So, if you want to do them, you could probably get a twofer.

Commissioner Hechtman: If I can get a twofer here with Mr. Yang's permission I would enjoy that.

Ms. Tanner: And to clarify that would be for the CUP Finding Number 2 to add the language in, but again to not have the approval of the body. Is that correct? I see nodding.

Mr. Yang: Right. [unintelligible – audio cut out] not a recommendation on making the Finding but recommendations for changes to the [unintelligible].

Chair Templeton: Yeah, changes to the text that would be presented to Council. Is that your intention Commissioner Hechtman?

Commissioner Hechtman: It is as to the five changes I had described in reference to CUP Finding Number 2. When we get to Variance Finding Number 3 there's one additional recommendation I'm making that is not applicable to CUP Finding Number 2.

Chair Templeton: Ok.

Ms. Tanner: That's understood. Albert, where you going to say something? Sorry. I think we're good. Sorry.

Chair Templeton: I'm just checking in with the seconder, you cool? Are you cool with those changes Vice-Chair Roohparvar? Yep?

Vice-Chair Roohparvar: Yes.

Chair Templeton: Alright. Any additional commentary before we take the vote on language changes only to CUP Finding Number 2 and Variance Finding Number 3? Ok, Mr. Nguyen, please conduct the vote.

-
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1 Commissioner Alcheck: Hey can I just... I'm sorry. I was trying to raise my hand.

2

3 Chair Templeton: Oh, I didn't see it. Go ahead.

4

5 Commissioner Alcheck: So, I just want to say that I feel like what we're saying is we're asking
6 City Council to move forward with this item in the absence of a recommendation so, or are you
7 saying... are you including... are you making this Finding in addition to incorporating language
8 from the previous part?

9

10 Commissioner Hechtman: We're voting... my intention is we're voting on language changes
11 here and once we have this vote I'm going to make another motion to recommend Finding 3
12 and that's where I think we're going to have some discussion.

13

14 Commissioner Alcheck: Oh, perfect, ok. Fine, fine, fine, thank you. I wasn't sure if this was the
15 last motion.

16

17 Chair Templeton: I think these were (interrupted)

18

19 Commissioner Alcheck: I understand that now. I'm prepared to vote.

20

21 Chair Templeton: So, it's the line edits. Ok so, Commissioner Summa.

22

23 Commissioner Summa: Are we voting Commissioner Hechtman's changes to the CUP Finding
24 also now? Because I thought that Staff clarified that those were clerical changes they would
25 make anyway. That we didn't need to vote on it.

26

27 Chair Templeton: They did, but I... I mean it's the same text in both cases. If we're voting on we
28 may as well vote on both.

29

30 Commissioner Summa: Oh, ok but aren't we including language about the... about basement?
31 How basements are handled for this one? For the Finding for the Variance, but that would not
32 be appropriate in the Finding for the CUP.

33

34 Commissioner Hechtman: Right, it's not part of that motion. I mean it's part of the motion that
35 that language only goes in Variance Finding 3, not in CUP Finding 2.

36

37 Commissioner Summa: Ok. Thank you.

38

39 Commissioner Lauing: For this first vote you're just changing language?

40

-
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1 VOTE

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3 Chair Templeton: Yes, it's just his line edits. Ok, Mr. Nguyen, please conduct the vote.

4

5 Mr. Nguyen: Commissioner Hechtman?

6

7 Commissioner Hechtman: Yes.

8

9 Mr. Nguyen: Commissioner Alcheck?

10

11 Commissioner Alcheck: Aye.

12

13 Mr. Nguyen: Commissioner Lauing?

14

15 Commissioner Lauing: Yes.

16

17 Mr. Nguyen: Commissioner Riggs is absent. Vice-Chair Roohparvar?

18

19 Vice-Chair Roohparvar: Yes.

20

21 Mr. Nguyen: Commissioner Summa?

22

23 Commissioner Summa: I'm going to vote no on this.

24

25 Mr. Nguyen: Chair Templeton?

26

27 Chair Templeton: Yes.

28

29 Mr. Nguyen: Ok the motion carries 5-1-1.

30

31 MOTION #13 PASSED 5(Alcheck, Hechtman, Lauing, Roohparvar, Templeton) -1(Summa) -
32 1(Riggs absent)

33

34 Chair Templeton: Alright, thank you, and back to Commissioner Hechtman.

35

36 MOTION #14

37

38 Commissioner Hechtman: Thank you. So, I will move that the PTC recommend to the City
39 Council the version of Variance Finding 3 with the langue changes approved by a majority of the
40 PTC in the just-finished motion.

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SECOND

Vice-Chair Roohparvar: I'll second.

Chair Templeton: Alright and just to go back over some territory we previously covered. This is FAR, or no, this is Comprehensive Plan and Zoning Ordinance regardless of location because this is in the Variance Findings section. Is that your understanding Commissioner Hechtman and Mr. Yang?

Mr. Yang: Correct.

Chair Templeton: Ok.

Commissioner Lauing: Did you say, Ms. Templeton did you say Zoning and Comprehensive Plan?

Chair Templeton: Yes.

Commissioner Lauing: Ok.

Chair Templeton: I'll speak to this. I want to be very consistent with CUP Finding Number 2. My concerns there are about the underground parking facility in this zoning location and not about how to calculate FAR in an underground parking facility should it be approved. So, I think I will be supporting this. I'm interested to hear other comments on it before the vote, however, if you have them. Commissioner Summa, is this your hand up from last time, or do you wish to speak again? Ok. Commissioner Lauing.

Commissioner Summa: I was on. I did want to speak.

Chair Templeton: Oh, then Commissioner Summa.

Commissioner Summa: No, sorry.

Chair Templeton: You were so quick with the hand. I didn't understand.

Commissioner Summa: I know, I'm sorry. I did want to speak to my no motion on the last one and that was not because of not appreciating Commissioner Hechtman's changes to the CUP Finding, but rather the addition of the... I didn't feel that what the... he wanted to add to

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1 Number 3 would help us understand... help anyone understand really the issues with the floor
2 are below ground. So, but they were linked together so.

3
4 Chair Templeton: Thank you for clarifying that no vote Commissioner Summa. Commissioner
5 Lauing.

6
7 Commissioner Lauing: Yes, I'm essentially in agreement with Commissioners Templeton and
8 Summa. I don't think that there's a substantive change from where we were on the CUP
9 Number 2. So, I would be consistent with my own vote.

10
11 Chair Templeton: Can you... would you be willing... just for my own understanding to clarify
12 your objections on CUP Finding Number 2 were including FAR, is that correct, or could you
13 speak more to it? I want to understand your position a little better.

14
15 Commissioner Lauing: On Item 2, that was hours ago, right? No, but (interrupted)

16
17 Chair Templeton: You're so right.

18
19 Commissioner Lauing: It was FAR and the placement of that underground garage that we've
20 been having a tousel about for the last three meetings.

21
22 Chair Templeton: Yes, sir. Alright, thank you for clarifying that. I appreciate that. I appreciate
23 your comments. Ok, anyone else want to speak to this before we take a final vote? Alright, Mr.
24 Nguyen.

25
26 Mr. Nguyen: It looks like Commissioner Alcheck wanted to say something.

27
28 Chair Templeton: Oh, he had his hand up. I'm sorry I didn't see that. Commissioner Alcheck.

29
30 Commissioner Alcheck: Yeah, I just wanted to say I think... I applaud this effort to sort of create
31 a distinction here and create a bigger umbrella. I think that that is... that's what we're supposed
32 to be doing. This is about compromise and about sort of working together to create a project...
33 sometimes we don't always get our motion exactly how we want it, but a goal here is to sort of
34 improve upon these things. So, anyway, I just want to say that I liked how you did that, and I
35 will be supporting the motion.

36
37 VOTE

38
39 Chair Templeton: Thank you very much. Mr. Nguyen.

40

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1 Mr. Nguyen: Commissioner Alcheck?

2

3 Commissioner Alcheck: Aye.

4

5 Mr. Nguyen: Commissioner Hechtman?

6

7 Commissioner Hechtman: Yes.

8

9 Mr. Nguyen: Commissioner Lauing?

10

11 Commissioner Lauing: No.

12

13 Mr. Nguyen: Commissioner Riggs is absent. Vice-Chair Roohparvar?

14

15 Vice-Chair Roohparvar: Yes.

16

17 Mr. Nguyen: Commissioner Summa?

18

19 Commissioner Summa: No.

20

21 Mr. Nguyen: Chair Templeton?

22

23 Chair Templeton: Yes.

24

25 Mr. Nguyen: Ok the motion carries 4-2-1.

26

27 MOTION #15 PASSED 4(Alcheck, Hechtman, Roohparvar, Templeton) -2(Lauing, Summa) -
28 1(Riggs absent)

29

30 Chair Templeton: Thank you very much. Would the... those who voted no like to speak to their
31 dissent? Commissioner Lauing, I don't know if that's a legacy hand.

32

33 Commissioner Lauing: No, it was going to be a next hand, but I'll take for this one too. I don't
34 think I need to elaborate. I think that those two motions are consistent and that's why I voted
35 as such.

36

37 Chair Templeton: Thank you very much. Commissioner Alcheck, do you have your hand up?

38

39 Commissioner Alcheck: I don't. I mean I do but not intentionally. Sorry.

40

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1 Chair Templeton: I was going to say there might be a lag. I don't know. Like I said I'm having
2 internet issues. Well, I think maybe we can some confirmation from Staff, but I think we have
3 completed this item. I'm not going to close it just yet, but ok, I see some nods. I just want to
4 want to say thank you to all the Commissioners and the speakers and the presenters and the
5 applicant and Staff. This has been a gargantuan effort that has spanned many, many months
6 and years if we talk about going back to the very beginning. Its been very important to have
7 dialog about this. It's an issue that's very important for our community about an institution
8 that's important to our community and historical as well. And we want to do our best to do a
9 thorough, complete, and appropriate analysis of everything that's been presented, and I think
10 we've accomplished that. Now, like some of the Commissioners said, we haven't agreed on
11 everything, but I think we have brought to light the areas of disagreement so that Council can
12 benefit from the analysis that we've done. So, I just want to really thank everybody for this and
13 for staying late so many nights to work on this. It's very satisfying to be able to move this
14 forward, although with all of our feedback incorporated so thank you very much. Commissioner
15 Lauing.

16
17 Commissioner Lauing: Appropriately as the Chair you made the comments that I was thinking
18 about making so I'm glad you did, but I just wanted to use the word in appreciation here for the
19 debate on the part of colleagues with respect. And we're pretty much disagreed on much of
20 this stuff, but we know that we're trying to get something done correctly for the community
21 and I think all of our hearts were in the right place in trying to get there. And we'll see if that's
22 true, but I really think that the level of respect, given how [unintelligible] we are, is something
23 that I just wanted to take note of. And of course, have to thank the public for their many
24 months of patience with this. You know, I think we moved as quickly as we could, but it was a
25 long process so there's plenty of thanks to go around, and hopefully, these things work out. So,
26 thanks.

27
28 Chair Templeton: I second all of those comments. Thank you so much. Alright, so let's close out
29 that item and move on.

30
31 **Commission Action:** Motion by Hechtman, seconded by Roohparvar. Pass 5-1-1
32 (Alcheck against, Riggs absent)

33 **Commissioner Action:** Motion by Hechtman, seconded by Roohparvar. Pass 6-0-1 (Riggs
34 absent)

35 **Commission Action:** Motion by Hechtman, seconded by Roohparvar. Pass 5-1-1
36 (Summa against, Riggs absent)

37 **Commission Action:** Motion by Lauing, seconded by Summa. Fail 2-4-1 (Alcheck, Hechtman,
38 Roohparvar, Templeton against. Riggs absent)

39 **Commission Action:** Motion by Roohparvar, seconded by Templeton. Pass 4-2-1 (Lauing,
40 Summa against. Riggs absent)

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- 1 **Commission Action:** Motion by Alcheck, seconded by Hechtman. Pass 6-0-1 (Riggs absent)
2 **Commission Action:** Motion by Hechtman, seconded by Alcheck. Pass 4-2-1 (Lauing, Summa
3 against. Riggs absent)
4 **Commission Action:** Motion by Hechtman, seconded by Alcheck. Fails 3-3- 1 (Lauing, Summa,
5 Templeton against. Riggs absent)
6 **Commission Action:** Motion by Alcheck, seconded by Lauing. Pass 6-0-1 (Riggs absent)
7 **Commission Action:** Motion by Hechtman, seconded by Alcheck. Pass 4-2-1 (Lauing, Summa
8 against. Riggs absent)
9 **Commission Action:** Motion by Hechtman, seconded by Alcheck. Pass 4-2-1 (Lauing, Summa
10 against. Riggs absent)
11 **Commission Action:** Motion by Hechtman, seconded by Roohparvar. Pass 4-2-1 (Lauing,
12 Summa against. Riggs absent)
13 **Commission Action:** Motion by Hechtman, seconded by Roohparvar. Pass 5-1-1 (Summa
14 against. Riggs absent)
15 **Commission Action:** Motion by Hechtman, seconded by Roohparvar. Pass 4-2-1 (Lauing,
16 Summa against. Riggs absent)
17 **Commission Action:** Motion by Hechtman, seconded by Roohparvar. Pass 6-0-1 (Riggs absent)

18 **Approval of Minutes**

19 Public Comment is Permitted. Five (5) minutes per speaker.^{1,3}

20 5. October 28, 2020 Draft PTC Meeting Minutes

21 Chair Templeton: I believe the next Agenda Item is Approval of the Minutes. Did anyone have
22 any comments, changes, additions to the minutes? Commissioner Hechtman.

23

24 Commissioner Hechtman: I think we're... the minutes we're approving at the October 28th, is
25 that right?

26

27 Chair Templeton: Hold on, let me just double-check on the Agenda here. Yes.

28

29 Ms. Rachael Tanner, Assistant Director: Yes.

30

31 MOTION

32

33 Commissioner Hechtman: So, I believe I had submitted some revisions and I would move
34 approval of the October 28th draft minutes as revised.

35

36 SECOND

37

38 Vice-Chair Roohparvar: I'll second.

39

-
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1 VOTE

2

3 Chair Templeton: Thank you very much. Any discussion? Seeing none. Mr. Nguyen, would you
4 please conduct the vote?

5

6 Mr. Vinhloc Nguyen, Admin Associate III: Commissioner Alcheck?

7

8 Commissioner Alcheck: Yah.

9

10 Mr. Nguyen: Commissioner Hechtman?

11

12 Commissioner Hechtman: Yes.

13

14 Mr. Nguyen: Commissioner Lauing?

15

16 Commissioner Lauing: Yes.

17

18 Mr. Nguyen: Commissioner Riggs is absent. Vice-Chair Roohparvar?

19

20 Vice-Chair Roohparvar: Yes.

21

22 Mr. Nguyen: Commissioner Summa?

23

24 Commissioner Summa: Yes.

25

26 Mr. Nguyen: Chair Templeton?

27

28 Chair Templeton: Yes.

29

30 Mr. Nguyen: Ok, the motion carries 6-0-1.

31

32 MOTION PASSED 6(Alcheck, Hechtman, Lauing, Roohparvar, Summa, Templeton) -0- 1(Riggs
33 absent)

34

35 Chair Templeton: Excellent. Thank you so much.

36

37 **Commission Action:** Motion by Hechtman, seconded by Roohparvar. Pass 6-0-1 (Riggs absent)

-
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1 **Committee Items**

2 Chair Templeton: Committee Items? If they're important and urgent and timely please feel free
3 to bring them up at this point. We won't be meeting again until December so please raise your
4 hand, or just speak up if you have a Committee Item you'd like to share. Ok, seeing none.

5 **Commissioner Questions, Comments or Announcements**

6 Chair Templeton: We will move onto Commissioner Questions, Comments, Announcements, or
7 Future Agenda Items. Alright, do we want to talk about future Agenda items, Ms. Tanner?

8
9 Ms. Rachael Tanner, Assistant Director: I can just [unintelligible] say the next meeting will again
10 be on December 9th and we'll be talking about the NVCAP, the North Ventura Coordinated Area
11 Plan, as well as a proposal for a Text Amendment also within the boundaries of the area plan
12 for the building which formally housed Fries Electronics and that will be our last meeting of
13 2020.

14
15 Chair Templeton: Looking forward to it. Thank you again, everyone.

16
17 Ms. Jonathan Lait, Director of Planning: Actually, just one note.

18
19 Chair Templeton: Oh, there's more? Yes, please.

20
21 Mr. Lait: I'm sorry, just one note on that. Rachael, sorry, we haven't connected on this yet.
22 The... I believe the Text Amendment is actually going to be in the first quarter of next year. We
23 have a little bit more work to do on that one. So, sorry, that's news to Rachael as well, but don't
24 anticipate that in December.

25
26 Chair Templeton: Ok, that's good to know. Alright, well thank you everyone and I guess Happy
27 Thanksgiving. Do stay safe and follow all of our purple COVID guidelines that Ms. Tanner
28 brought up earlier in the meeting and we'll see you on the other side of the holiday. Thank you.
29 Bye, everyone.

30 **Adjournment**

31 11:30 pm

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