



PLANNING & TRANSPORTATION COMMISSION MINUTES

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*Special Meeting of Wednesday, July 22, 2009
Council Chambers, Civic Center, 1st Floor
250 Hamilton Avenue
Palo Alto, California 94301*

ROLL CALL: 6:00 PM

Commissioners:

*Daniel Garber - Chair - absent
Samir Tuma – V-Chair
Susan Fineberg
Karen Holman
Arthur Keller
Lee I. Lippert
Fabio Rosati – absent*

Staff:

*Donald Larkin, Assistant City Attorney
Curtis Williams, Interim Director
Julie Caporgno, Chief Planning & Transp. Official
Amy French, Current Planning Manager
Roland Rivera, Senior Planner
Jennifer Cutler, Planner
Shahla Yazdy, Transportation Engineer
Zariah Betten, Admin. Assoc.*

AGENDIZED ITEMS:

1. Review and Discuss the Comprehensive Plan Update Work Program Process and Schedule and the Role of the Planning and Transportation Commission.
2. College Terrace Traffic Calming Plan Trial Evaluation
3. Initiate Zoning Map and Text Changes to the Ground Floor (GF) Combining District and Downtown Commercial Community (CD-C) Zone District.
4. Review and Recommendation of an Uncodified Ordinance relating to Time Extensions for active permits previously approved pursuant to Palo Alto Municipal Code, Title 18, Zoning Code.

Vice-Chair Tuma: Good evening. Welcome to the July 22, 2009 Special Meeting of the Planning and Transportation Commission. Secretary, please call the roll. Thank you.

We have a very full agenda tonight, four items, and the first of those is a Study Session, which is slated to go from six to seven o'clock. Assuming we can get through that in less than an hour we will change things around a little bit and go to Reports and also Approval of Minutes.

We are only five tonight so I am also hopeful that that will allow us to be expeditious. I just want to remind everybody that we do have a policy on the Planning Commission that says we will make every effort possible to conclude our business by eleven o'clock. So with that in mind we will go to Oral Communications. This is the time in our agenda where any member of the public can speak to the Commission on items not on the agenda. I see no cards.

ORAL COMMUNICATIONS. Members of the public may speak to any item not on the agenda with a limitation of three (3) minutes per speaker. Those who desire to speak must complete a

speaker request card available from the secretary of the Commission. The Planning and Transportation Commission reserves the right to limit the oral communications period to 15 minutes.

AGENDA CHANGES, ADDITIONS AND DELETIONS. The agenda may have additional items added to it up until 72 hours prior to meeting time.

Vice-Chair Tuma: So we will go to item number one, which is a Study Session on the Comprehensive Plan Amendment Update on the progress, work program, and schedule for the Comprehensive Plan Amendment. Does Staff have some brief comments?

Study Session (6:00 – 7:00 PM):

1. Review and Discuss the Comprehensive Plan Update Work Program Process and Schedule and the Role of the Planning and Transportation Commission.

Ms. Julie Caporgno, Chief Planning and Transportation Official: I will be brief. As you probably recall two weeks ago we discussed the Housing Element and the schedule with you. Obviously the Comprehensive Plan and Housing Element are very interrelated but we have a separate schedule for the Comprehensive Plan. You had requested this about a month and a half ago that we come back to you and kind of tell you where we were with the Comprehensive Plan process and how you were going to fit into the discussions as we progress with the Amendment to the Comprehensive Plan. We didn't specify in the Staff Report but we had mentioned at the Housing Element meeting two weeks ago that on August 26 we are coming back to you with a discussion of the major themes and the vision of all the chapters in the Comprehensive Plan to kind of give you some background and understanding of the foundation for the existing Comprehensive Plan, which direction from Council had been that that still is viable. Obviously there may be some tweaks made to some of the elements including the Housing Element vision but basically we feel that the vision that is in the Comprehensive Plan is the vision that the Council is content with.

We are also in September going to have a community meeting on the Comprehensive Plan vision, particularly the Housing Element vision. Then in October or November we were anticipating a joint meeting between the Planning Commission and the Council on the major themes and the overall Comprehensive Plan vision for you to get some feedback particularly from the Council to either support what I just said about the vision is consistent with what they feel currently is their position or if there are changes that they would like to see made, substantial changes.

We did receive some comments from a Commissioner. The only comments we received from a Commissioner were from Commissioner Fineberg, which the responses are at places. I don't know if you want me to go through those or if you have an opportunity to look at them. I can just briefly describe what the comments were and our responses.

Vice-Chair Tuma: Let me just ask Commissioner Fineberg. Have you had an opportunity to read these responses?

Commissioner Fineberg: I have to admit that I just did in the last 30 seconds. So I am aware of what they are but I am not sure they are fully digested yet.

Vice-Chair Tuma: Okay. So why don't you briefly summarize the responses and we will see if that will get us there, if not then we will take a minute to read through questions and responses, and then go from there.

Ms. Caporgno: Okay. The first question that Commissioner Fineberg raised was one that she had raised at the Housing Element discussion two weeks ago. That is in the Municipal Code it states that the Planning Commission shall annually review the general plan and recommend to the City Council extensions, changes, or additions to the plan as the Commission may consider necessary in the review of any changes in conditions. She asked what annual review of the general plan will be conducted in 2009, and what annual review will occur in subsequent years until the full Comprehensive Plan is amended in 2012. The response is that the way the City has conducted the annual review of the Comprehensive Plan has been through the preparation of the Implementation Plan Status Report that was sent to Planning Commission and then forwarded to Council each year. When we were given the task of updating the Comprehensive Plan we informed both the Planning Commission and the Council that we would not be continuing that because we would be looking at all of the implementation measures in a comprehensive way through this process as opposed to annually. That is the process that we are currently undertaking.

The second question was what process will the Planning Commission utilize in 2009 to determine which if any recommendations to make to the City Council regarding extensions, changes, or additions to the plan? And, would it be appropriate for the Planning Commission to have a Study Session in September to discuss which items might require more immediate review by the Planning Commission with recommendations to Council prior to full Comprehensive Plan Update in 2012? And, what issues might be considered by the Commission including Planned Community zones, private streets, cap on market rate housing, parking requirements in multifamily zones, and high-speed rail. The response was when the Council approved the Amendment process in 2006 the only issue identified by the Council at that time that they wanted us to complete prior to the Amendment was to rezone properties that were currently used for commercial purposes that were planned and zoned for residential use. We undertook that and completed that in 2007. Then the Council reaffirmed the Comprehensive Plan Amendment work program in 2008 and at that time Staff was directed to add a work program in the analysis of the Comprehensive Plan to address or incorporate a policy for private/public streets. Planned Community zones and parking requirements are considered zoning issues and are part of the ZOU process. That was delayed by Council in order to undertake the Amendment. So those are still on our work program it is just that they are not high priority items at this time. Then a cap on market rate housing and policies regarding high-speed rail are considerations that can and should be evaluated in the Amendment process. Then again, I said in October that the Planning Commission and Council are tentatively scheduled to hold a Joint Study Session on the themes and vision of the Comprehensive Plan and discuss potential changes to the vision. At that time the Planning Commission can raise other issues to the Council for comment and discussion and direction.

Vice-Chair Tuma: Sorry to interrupt. If I could just interrupt you for one second, I think up until we need to take a two-minute break just to fix the audio and maybe during that time we can finish reading these on our own. So let's just take two minutes.

Ms. Caporgno: Number three was what is the status of the PTC meeting with the Palo Alto Unified School District Board and/or the representatives? As we mentioned at the meeting two weeks ago, we would discuss the item with the City Manager's Office and we have. There is the potential for the meeting with the City School Liaison Committee in September. They have two meetings scheduled for September and we will get you a date for that. It is anticipated that two representatives from the Planning and Transportation Commission can discuss the school issues with two Council Members and the two School Board members on the committee. So if possibly early next month we could maybe discuss with the Commission who they want to have attend that meeting and we will have dates for you and maybe a general description of the agenda that you want us to convey to the Liaison Committee.

The fourth question that Commissioner Fineberg had was will the environmental analysis that was noted in the work program also include analysis of service needs for public safety facilities, water, sewer, and other basic infrastructure needs, or will it analyze just the items that were noted? It will definitely include all of those. We had noted the other items because we wanted to specifically identify that we are going to do an additional analysis other than what is normally required under CEQA. So the library, schools, and parks issues usually only have to be addressed if there is going to be some physical impact but we are going to address them from a fiscal standpoint also, so that is why that was called out.

That concludes our responses to Commissioner Fineberg's questions. If she wants further information I will be glad to try and give you any and if anybody else has any questions. That is it for us. You have the schedule and what we would really like from you is if you have any concerns about your interaction, questions about how we anticipate this working, again we can change this as we go through the process to accommodate you. This is what we envision now at the beginning of the process but as we get into it we may want to modify it depending upon what works best.

Vice-Chair Tuma: Okay, thank you Julie. Commissioner Fineberg, have you had the opportunity to digest these responses and do you have some follow ups?

Commissioner Fineberg: Yes I have and thank you Julie. I do have a couple of follow-ups. On my first question I understand your answer. I am not certain of its adequacy though. As I read the Municipal Code and maybe this would be more useful if our City Attorney was present because frankly I believe the answer lies in a legal reading of the Municipal Code. Here he comes.

So we are discussing my first question and the adequacy of that question. My reading as plain English is that Municipal Code is really clear that "The Planning Commission shall annually review the general plan and recommend to the City Council such extension, changes, or additions to the plan as the Commission may consider necessary in view of any change in conditions." For the record, when I said "The Planning Commission," that started in quotes. So it means the Planning Commission shall do an annual review and it can include extensions, changes, or additions to the plan as the Commission may consider necessary. That seems very different than a Staff analysis of the status of work programs for polices and procedures. So are we fulfilling the mandate as stipulated that we shall in Municipal Code?

Mr. Donald Larkin, Assistant City Attorney: I understand your reading because that is how I would read the statute as well. The issue we run into with Title 19 is that Title 19 doesn't mean what Title 19 says because the courts told us it doesn't.

Just to give a little background Title 19 was proposed as an administrative measure back in 1962. At the time it was proposed the City Attorney then, I don't know who that was, but the City Attorney refused to put it on the ballot because they said it conflicts with City Charter which outlines the responsibilities of the Planning Commission. The court of appeals said you are right it conflicts with the City Charter but it doesn't do what it says it does. It doesn't give any new authority or responsibility to the Planning Commission it just implements state general plan law. So I think it gives the Commission more options in terms of how to respond to things that it does on an annual basis like review the CIP Budget. I think we have sort of been constraining you to what state law says but it really does give you more options but it doesn't put any mandate on either the Commission or Staff to prepare for Commission a separate review. That said, I think the essence of Julie's response is that all of the things that would go into that annual report are being done as part of the Comprehensive Plan Update so even if there was something the Commission should be reviewing I think you are going to be doing it. It doesn't have to be a separate annual review as long as you are reviewing and making recommendations on changes to the Comprehensive Plan.

Commissioner Fineberg: So if the Comprehensive Plan Update process is basically a five year program, we already are two years into it with another three years, that means that for every Comprehensive Plan which has a life of between ten and 20 years for five years we are not going to conduct annual reviews irregardless of changed conditions in those five years?

Mr. Larkin: You are not going to conduct separate reviews. That is the essence of what you are doing in the Comprehensive Plan Update is reviewing changes in conditions for suggested updates to the Comprehensive Plan. That is what the whole Comprehensive Plan Update is. So no you are not going to do a separate, independent annual review on top of the review that you are doing. I don't think that is what is required by the code.

Commissioner Fineberg: Okay, my last question on this. So that still leaves me in a little bit of a position with a chicken and an egg because I keep hearing that two years ago as a result of a Colleague's Memo from Council that initiated the Comprehensive Plan Update and set the directive for the very specific items that will be included in the focused updated. So if that is our mandate for the Update when does the Planning Commission ever consider anything that would look like issues, or policies, or programs view the Commission as a body would review what to update?

Ms. Caporgno: I am not sure if I am following you but I think that you may have major issues regarding changes to the Comprehensive Plan. I think that the Council has given direction two years ago of what they felt were the major issues that needed to be addressed. The Commission through this process can probably propose other things. We have a consultant team who will be addressing the scope of work that was identified by Council but that doesn't preclude you from coming forward with some other changes that you want to put forth to Council.

I think that you are going to look at all of the programs and policies and again identify those. That doesn't mean that the Council, and the Council may change its collective mind as to what it

wants to see at the end of this process too. We are just kind of following the direction that was given to us from them. You will have an opportunity to go beyond that whether or not it will be entertained by Council is something else.

Commissioner Fineberg: Okay, thank you. I appreciate that. Then one quick question on my third question about the meeting with PAUSD Board Members is that another place where Chapter 19 isn't saying what it really says, and why are we as a body not able to meet with PAUSD? Why must it be....

Mr. Curtis Williams, Interim Planning Director: Don can respond if there is a legal issue. We didn't look at it as a legal issue we looked at it as a protocol issue. The Council typically is the elected body and the School Board is the elected body, and there would need to be a determination that the School Board wanted to meet with the Commission as a whole. I discussed the avenue for doing that with Steve Emslie, who attends all the City School meetings, we thought that the best way to do that was to have a couple of Planning Commissioners come with Staff to one of those City School meetings, present sort of what the issues are, lay that out, have some discussion, and then see what if any of the School Committee members would like to move that onto the full Board and have that full discussion. Then that would be their direction to do that and what format that would take and that kind of thing.

Commissioner Fineberg: So the initial meeting with the two representatives is simply the opening forum for the discussion rather than the discussion itself?

Mr. Williams: Right. I think we would sort of layout sort of what the status is. Julie and I were there a few months ago and talked about the sort of status of the Housing Element specifically. So I think this would be a good follow up to that to have some Commissioners there, identify what some of the issues are that have come up through the Commission, and your interest in presenting those to the School District and exchanging information as far as potential impacts relative to the Comprehensive Plan and Housing Element, and how would they like that interaction to occur, how would and what format again would they like to see that take, etc. Then you would also have the input of the two Council Members who could weigh in on the appropriateness from the Council standpoint if they wanted to have it be a joint session or if they thought the Commission should meet with the Council and the Council should meet with the School Board, whatever the preferred method is.

Commissioner Fineberg: Okay, thank you.

Ms. Caporgno: I was going to add that this is one issue that you could also raise when you have your Joint Planning Commission and Council Meeting. All of you will be present for that and it will be after this initial meeting so if there is other follow up you could get some direction from Council too as to whether or not they would want to meet with the School Board if they felt that there needed to be this connection or they wanted to delegate it to the Commission.

Vice-Chair Tuma: Okay. I have a quick follow up to that too but go ahead.

Commissioner Lippert: The School District is not subject to local regulation so whatever happens between the City Council and the School Board is really a negotiation or finding common ground. They don't have the ability to impose rules upon each other and that is

mandated by state law. So the Planning Commission entering into that is really – we would have to be invited by that body to have that happen. The School Board really doesn't need to listen to what we have to say.

Commissioner Fineberg: You can look at it as be invited or do the inviting. Either way it is voluntary on both parties.

Vice-Chair Tuma: Let me try something here. In your discussions internally with the City Manager and as we move forward, I don't know that or it certainly wasn't my intention and I don't know that it was Commissioner Fineberg's that this necessarily had to be the School Board. I think the intent was for us to be able to gather significant data about what the School District sees. As I sit here I am thinking I am not convinced that the School Board is necessarily the right people. It may actually be staff and/or their demographer who are going to be in a better position to have that discussion as opposed to the School Board. It is not so much of school policy types of things as it is kind of a data gathering and discussion about what they see coming. That was at least my intent of going in that direction. So we may not necessarily have this protocol issue at all, but I do think having this preliminary meeting with them gives us an opportunity to flesh this out and then come back in a substantive meeting, with the intent that the substantive meeting be with the whole Planning Commission and whoever it is from the school side of things makes sense, and this may or may not be the Board, it may be others.

I am going to change the order here a little bit because I do have one member of the public who wants to speak. I just got handed this after we got started with our discussions. So if it is okay with Commissioners we are going to hear from that member and then we will come back to our discussion. That member of the public is Herb Borock, you will have three minutes.

Mr. Herb Borock, Palo Alto: Thank you Vice-Chair Tuma. On the protocol question it is not the Staff's place or the Commission's place to decide to show up as a participant, essentially an equal participant, in the City School Liaison meetings. It would be more appropriate for the Commission to recommend to the Council or the Staff to recommend to the Council that you attend as suggested by Staff and then for the City's representatives to discuss that at a meeting with the School District representatives. So then the Committee itself would say it is okay.

As far as Title 19 is concerned there was a time when the procedures that were followed by Staff and the Commission on I believe both the Comprehensive Plan and the Zoning Ordinance were that in addition to applicants being able to pay a fee and start a process for amending either the Comprehensive Plan or the Zoning Ordinance that there was also an annual review for which essentially there wasn't a separate fee, it wasn't tied to a particular time. Staff would then review requests for changes and amendments, and make recommendations to the Planning Commission. There was then essentially an annual time period where there would be set of requests coming through and the Commission review them. I believe that was the way that Staff at that time understood its way to implement that provision in Title 19 of the Code. Ultimately, the extent to which those kinds of processes occur has to do with what the Council and the Manager that it hires wants to do. It is not something that the Commission can make happen. I think that is really the place for that. Instead we now have a place I believe in the zoning code where now as part of an application an applicant can request a change in the zoning code to benefit their project and that then is a change in the zoning code for everybody. So that is a difference in the way things work. I don't know if that is something that just has been happening

over the past nine years or whether that change occurred earlier. It would take me some time to go back and research that. There used to be a process not just on those things but on other things within Planning such as requests for changes to stop sign locations, which have been done away with. Thank you.

Vice-Chair Tuma: Thank you. With that I will bring it back to the Commission and close the public hearing. I have lights from Commissioner Keller and then Commissioner Holman.
Commissioner Keller.

Commissioner Keller: Thank you. My first question is nomenclature. The nomenclature may sound silly but it actually has more implications than that. Are we doing for this two or five or however many year process that we are doing to extend the life of the Comprehensive Plan is that a Comprehensive Plan Update or a Comprehensive Plan Amendment? We seem to be using different terminology and I would really like to understand which makes more sense.

Ms. Caporgno: I don't if there is any specific language that needs to be addressed but I do admit that it needs to be called the same thing consistently. I have been trying to call it 'Amendment' because it is just amending the current Comprehensive Plan. Normally when you say 'Update' it implies a more comprehensive change to the Comprehensive Plan. So the Amendment is implying that we are not changing it in its totality we are just focusing on certain issues.

Commissioner Keller: I appreciate what you are saying. I would actually argue that Update doesn't necessarily mean that we are updating the whole thing but that we are bringing it current in order to extend its life. So if you will, if you are making systematic changes to something whether it is to every section or only to selected sections in order to extend its life that is really an Update. If you are making textual changes to parts of the Comprehensive Plan and not extending its life that is more an Amendment. The reason I am asking this is because if you think about those distinctions we are going through a multiyear process of updating the Comprehensive Plan while what Commissioner Fineberg referred to is amending the Comprehensive Plan with respect to the scope of its current life. So those are really two different processes that should be kept separate.

The next issue is that we have this process of a Report to Council, and perhaps the Commission should consider whether it should include Comprehensive Plan Amendments as part of the Report to Council so that that annual cycle for doing this Report to Council, which we have begun to do, if we include Comprehensive Plan Amendments into that that might be a good way of doing that. It seems to make sense because that is when we are reporting information to Council of things that we think need to be changed whether it is Zoning Ordinance Amendments, whether it is Comprehensive Plan Amendments, whether it is things that we are concerned about that we are keeping any eye on and we will tell the Council about later. That seems to fit into that category.

With respect to the comment about Title 19 from our City Attorney, it seems to me that perhaps there might be a distinction between what might be referred to as an initiate statute versus an initiative charter amendment. We have noticed this in terms of state propositions that are state initiative statutes versus initiative constitutional amendments. My interpretation of what the Attorney said is that the ordinance that passed in 1962 was an initiative statute as opposed to an initiative charter amendment. Is that a correct interpretation?

Mr. Larkin: That is correct. Just to make it clear, because at the time the initiative was passed the general plan law was not applicable to charter cities. It now is so there are three issues at work. One is the charter takes precedence over the statutes but the state law that is applicable to charter cities as a general statewide concern also supercedes both the charter and the statutes. So anywhere there is conflict between Title 19 and the Charter the Charter controls. Anywhere there is conflict between Title 19 or the Charter and state general plan law the state general plan law controls.

Commissioner Keller: Thank you. I realize that we are not in the position to give Staff work that takes more than an hour in some sense but it would seem helpful if the City Attorney were to explain this to us and tell us where the conflicts arise and what sort of the high water marks are, if you understand what I mean.

Mr. Larkin: I think I can do that for the next time we have a Comprehensive Plan Study Session. I will prepare a memo. I was just noting when we were looking at the School Board issue at the end there is a whole – well, first of all we explicitly adopted the general plan laws that existed in 1959. As you can imagine it has evolved quite a bit from then. Then the statutes that are expressly cut and pasted into the ordinance many of those have been superceded including the School Board consultation statute, which has been eliminated and changed with a new way to consult with school districts.

Commissioner Keller: Thank you that would be very helpful. The next question that I have is the Comprehensive Plan Update process, if you like my nomenclature, is being spread out and that means that the consultant is being spread out with the cost distributed over more years. If you have ever read the book *The Mythical Man Month* you know that you can't compress a project by adding more person hours to it and expect it to be done in a shorter period of time. Also, when you spread something out the cost don't necessarily spread out in an equal way because of this funny thing called program management. Program management tends to be more correlated with the elapsed time than with the amount of work that gets done. It is correlated on both. So what I am wondering is as we are spreading this contract out with the consultants since the total cost of the consultant's fee is essentially constant does the amount of work that could get done actually decrease as a matter of spreading it out because of the project management cost increase?

Ms. Caporgno: There is going to be some of that. The Staff is going to have to take that on. We have already identified some areas that we will take responsibility for that the consultant won't do. For instance we will conduct the scoping meeting for the EIR and will prepare the Notice of Preparation. These are things that Staff feels comfortable doing but they had been duties that originally were going to be assigned to the consultant team.

Commissioner Keller: So hopefully the Council was aware when it spread these things out of those impacts on the amount of workload that can get done and how that would be divided.

Ms. Caporgno: I was not at the Finance Committee meetings so I don't know if that was discussed.

Commissioner Keller: Well perhaps when we have our Joint session with Council if that issue can be brought up that would be helpful from my position.

I noticed that we are having a Joint Session with Council I believe it is on Monday, October 12, is that correct?

Mr. Williams: No that is a holiday actually. We have tentatively scheduled October 19, the following Monday.

Commissioner Keller: Thank you.

Mr. Williams: That is tentative. We are going to have to discuss that with the Mayor probably and see if he is comfortable because we want to allow plenty of time for that discussion. We don't want to have one of these one-hour study sessions. So I would like to talk to him about whether maybe the following Monday, the 26th, which is generally not a Council Meeting maybe that would be better. They could set that aside and they could set the whole meeting for having a Joint Meeting on the Comprehensive Plan or something like that.

Commissioner Keller: I think that is helpful because it looks like Wednesday, October 14 is our discussion of housing, vision, goals, and key issues. It seems that the October 15 discussion to precede the Council Meeting with enough time for the result of our meeting to be digested and feed into the Council Meeting rather than the other way around. So I appreciate that change.

Let me close with one final comment. I appreciate the comments made by the Chair and Commissioner Lippert with respect to the school demographic person. Let me make a distinction that I think might elucidate the issue. The school demographer provides facts. Here is our projection of housing. Here is our projection of how many children will be based on what kind of housing is built. It is basically a prediction of the future, which is their best guess of the facts of the case. That is separate from policy issues. Its proper purview of the School Board as a policy issue of impacts and response to the schools of the demographic changes, and what the school's policy response is recognizing that the School Board has to accommodate all students that live in the district but that in some sense I am not sure that they can tell us we should allow less housing or less housing with kids. I am not sure they are allowed to tell us that question. To the extent that they would say if there are this many kids here is how we would accommodate it. So I want to draw a distinction between the factual information that we can get from the demographer, and the policy information that would involve the coordination of the School Board, and both of those separately would inform our process of deciding our recommendations to the Council in terms of what mix of housing we should zone for or plan for in the Housing Element. So I think both of those are needed. Thank you.

Vice-Chair Tuma: Okay. Commissioner Holman is next but before we do that I just have one quick suggestion on this issue about Title 19. Do we need to have a Municipal Code Amendment? It is one thing for you to come forward with a memo but then what about the next Commission down the road? Does this somehow need to be cleaned up so everybody is clear going forward about what the rules are here?

Mr. Larkin: It would be nice to be able to amend it the problem is it is an initiative and it can't be amended without a vote of the people, and we don't have money to do a vote of the people.

Vice-Chair Tuma: Okay, fair enough. Commissioner Holman.

Commissioner Holman: That was one of the questions I was going to ask too because for instance zoning code is intended to be consistent with and implement the Comprehensive Plan. It seems like Title 19 should be consistent with the City Charter for instance. So thanks for the response to that.

A question about the 2020 date. Comprehensive Plans are supposed to be long-term documents to provide a city with a long-range vision. Because the timing of this has been protracted how many times? This was supposed to be originally completed – please, Julie.

Ms. Caporgno: When we went to Council in 2006 we were anticipating two and on the outside three years. We didn't get any money funded that first year so we were not able to do anything. Then when it was funded the next year then we went through the whole process to get a consultant on board and that is what we did last year. So we have had one year with the consultant on board and now it has been extended an additional year.

Commissioner Holman: So in a perfect world it would have been done in 2008, potentially 2009. So now we are looking at 2012 with an end date for the Comprehensive Plan of 2020. There is a financial question, which isn't our purview, is how practical is it to start over again, we would have to start over again in probably 2015 to do an update. The other thing is 2020 really a good sunset for a Comprehensive Plan because are we really looking long-range enough? I will give you a moment to think about that and digest it.

Two other questions, neither one are new. Under the third point it talks about update Housing Sites Inventory and Housing Element. We still do not have a decision by the City Council on how they are going to respond to ABAG. So I continue to raise this because I am not sure that there is a coordination between the City's response to ABAG, since it hasn't happened, and that we are going through this exercise of the Housing Element Update and the Housing Sites Inventory. So how is that going to be resolved and when? It seems like we are tail wagging dog perhaps.

Ms. Caporgno: Well, a couple of ways possibly. First of all, when we have this next discussion with the Council on the vision and the themes of the Comprehensive Plan, and particularly the Housing Element, this is something that the Commission can raise once again with the Council. The way we had been going to approach this was that when we identify and bring to the Commission, which will subsequently go to the Council, a list of potential sites to place on the Inventory we were going to identify sites that we thought would meet good planning principles not necessarily say these are the ones that have to be placed on there. They know the number and we could explain to them the numbers from each of these sites, the numbers of units you would be getting from these sites, and then you as a recommending body, the Council as a approving body would have the opportunity then to decide do they want to put these on or not. So that would be when we have a Draft Housing Element, which would be probably in the next six to eight months. So that was that process. If we didn't get a response from them that they do or don't want to meet that ABAG housing number. We thought that it might be more practical when they see the realm of possibilities that these make sense to be placed on there, these don't, and even if we placed everything on there we still are not going to meet the numbers required, or

we can but we don't want to place these particular sites on the Inventory. Something for them to react to as looking at it mainly theoretically and those are the two different ways of approaching it and you will have that opportunity of discussing it with them when you talk about the vision. Again, I don't know if they are going to be willing to provide some insight as to how they want us to proceed but that is the way we were planning on doing this.

Commissioner Holman: Thank you for that. Then the other one is under your item number four and that has to do with integrating CEQA significance thresholds used in the EIR. Perhaps it is the same and perhaps it is related, certainly they are related. That is the significance thresholds for traffic especially there has been over the last good handful of years a lot of comment about how Palo Alto uses one standard and other communities use a different standard. Some people say we do it wrong and other people say we do it right. What is going to be the determinate that says what we use for this EIR and actually what we are going to be using on an ongoing basis whether it is this EIR or any EIR that has to do with transportation? Maybe other baselines too but certainly that transportation baseline has been a point of discussion and the LOEs.

Ms. Caporgno: Well, when we took the work program to the Council with a consultant contract and I believe to the Planning Commission also we attached the significance criteria that we were proposing to use. The Council basically blessed those at that time and they included the traffic significance criteria. They came to Planning Commission too is my recollection. Now I guess during this process the Council could decide they want to change them. We do have probably the biggest project that is going forward, that will be going forward to the City in a long time, the Stanford project using the significance criteria that we are proposing to use in the Comprehensive Plan. So maybe this is another issue that you want to address with Council when you have this next Joint Meeting. They referred them to this process during the course of that approval or reaffirmation of the work program and the approval of the consultant contract.

Commissioner Holman: So you have not gotten any information from current Council Members about readdressing these significance thresholds?

Ms. Caporgno: We have not. It went to this Council that's why when we had originally developed the work program we said we would bring the criteria that we would use in the EIR at the time we had the consultant contract and we did that and we didn't get any feedback.

Commissioner Holman: I was thinking more recently but if you haven't you haven't. So okay, that is it for me now. Did you want to respond to the 2020 date?

Ms. Caporgno: Curtis and I just briefly talked about it. The Council had said 2020 because they thought that they wanted to extend the life of this Comprehensive Plan through 2020, 2015 to 2020 was the actual language that they used. We were going to 2020. I don't think there is anything that precludes us from doing it to 2025. We could look at that. There is also the fact if you wanted to do a more major evaluation of the Comprehensive Plan then we would have to do another consultant contract. We would have to probably go back and look at the work program and what are we going to evaluate, which would then probably delay this even more. So I don't know what would be preferable. I go the impression and I continue to get the impression from Council that they feel that this Comprehensive Plan is still valid. So I don't know if it needs to be considerably updated and possibly just extending it for a longer period of time would be satisfactory. If in 2018 we have a 2025 Comprehensive Plan that doesn't mean it has to stay in

effect to 2025. You can start an update process sooner. So maybe that is what we do but we identify what the growth projections further out than what we originally were anticipating.

Commissioner Holman: Thank you.

Vice-Chair Tuma: Commissioner Lippert.

Commissioner Lippert: I just wanted to weigh in on some earlier comments made by my fellow Commissioners. Commissioner Keller has mentioned I guess it was the use of terminology or semantics in terms of Comprehensive Plan Amendment versus Update. I get the read that they are mutually interchangeable. In some cases Update is very appropriate because what we are doing is actually bringing it up to the current status of where the high end has already been defined in the Comprehensive Plan with regard to when go and make zoning or changes on specific parcels we also have to go through and sometimes make Comprehensive Plan Amendments at that time in order to get those parcels and the zoning to conform with the Comprehensive Plan. We have done that on a number of occasions. The reason I say that what we have identified is that there is ongoing work involved in this document and in identification of new parcels where we are going to be changing perhaps the zoning so we can build the Housing Element that is also quite valid. So I believe both of those terminologies are in play in this case. I would not want to exclude either of those terminologies I would just want to make sure they are used appropriately when we are dealing with those sections.

The second comment I wanted to make is with regard to the School District. I do think that Vice-Chair Tuma made a very good point, which is that I believe the demographer really has a lot more to do with what our purview is rather than getting enmeshed in say the political aspects of the City School Board Liaison Committee. What we need to be very clear on is that the decisions we are making here are not political decisions. I have been cautioned about that in the past by fellow Commissioners. What we are doing here is we are making decisions that are really based on data, facts, rules, regulations, and politics really doesn't have a role in what we are doing here. That Committee is subject to political pressures both the School District and the City Council. The best recommendations we can make are ones that are non-politicized but are based on how we see the rules and regulations and interpret those and the data. There was one other point I wanted to make but I have said enough I think.

Vice-Chair Tuma: Okay. It is just about seven. I do have lights from Commissioner Keller and Commissioner Fineberg. Do you have a couple of brief comments or questions?

Commissioner Keller: Let me ask a question and I don't expect an answer to this now. This is something to be thought of. We are typically allowed to consider housing impacts of schools only during creation of the Housing Element. However, I am wondering whether the Housing Element itself can have built in triggers based on the availability of slots in schools. For example, suppose that the School district capacity were to be exceeded based on the students. So if there are 12,000 slots and there are 12,000 students enrolled and the school capacity is exceeded then Housing Element automatically would trigger a housing moratorium. I don't expect an answer to that now. I just want to know if such a condition is legal and I request that City Attorney might give us an answer on that.

My closing comment is I would like to thank Staff, and in particular Julie for being very responsive to our concerns about the Comprehensive Plan Update process, and in particular being very forthcoming in terms of scheduling lots of meetings for us to discuss this. I believe that is a significant change from what might have been envisioned in the past. I appreciate that change. I think that has been very responsive and I think that allows us to more effectively accomplish our job the best way we can and that the voters in 1962 intended. Thank you.

Vice-Chair Tuma: Thank you. Commissioner Fineberg.

Commissioner Fineberg: Thank you. A couple of quick follow-ups. Just for the record, my question about the PTC meeting with the school stated specifically what is the status with our meeting with PAUSD Board and/or their representatives? So I would concur that it is not necessarily something that needs to be the entire Commission with the entire School Board. I think the value for us lies in meeting with the demographer so we do understand the facts, figures, where information that we have can flow to the demographer, and information that they have can flow to us. What I am kind of envisioning would be, and I don't know the protocol, but one or two Board Members I believe would probably adequately convey and be able to represent the sentiment of the full Board. So I don't see that it needs to be the entire Board if that makes the process easier, go for it. If it has to be full Board for appropriate protocol we need to live with that. I don't think any of us envision it must be full Board.

The second thing Commissioner Holman brought up the question of extending the timeline of the Comprehensive Plan. My gut reaction to that is one that we would need information before considering that seriously. As a caution the analysis and the underlying assumptions, the baseline conditions were all developed in the mid 1980 and we are not going back and doing that exhaustive research determining the exhaustive baseline, and the world already has changed since then, and will be very much more changed by 2020, and even more changed in 2025. Things exist now like the concept of global warming or national security threats that just didn't even exist when this Comprehensive Plan came up. So extending it another five years may lock us in with what will be 40 and 50 year old assumptions. I am not sure if that is the right thing. The cost savings may be the factor that pushes us to that but my gut says that would be 40 years after the initial analysis. That seems like a long time to go without sort of looking at that baseline of assumptions again. So I don't think with the little bit of thought that has gone into it that 2025 would necessarily be something we should move to quickly.

Vice-Chair Tuma: Okay, I think we have one brief comment from Commissioner Lippert and then we will move onto item two.

Commissioner Lippert: We are a little behind the eight-ball and a lot of it has to do with the ABAG numbers coming in as late as they are as well as budget constraints. I don't see extending or looking at extending the time horizon on this beyond 2020 because this data is continually updated and we have to be responsive to current data. In fact, to lock in and to say we are going to look beyond 2020 to 2025 in fact locks you into almost a – well it is antithetical to smart growth. What you are actually doing is saying that you cannot be nimble. You cannot in fact look at things and be flexible in terms of changing. You are locking in a plan that has a horizon of 2025 but it doesn't account for change.

Vice-Chair Tuma: Okay, great. Thanks. Commissioners, are we ready to move onto item two? Okay, great with that we will close item one and move onto item two, Reports of Officials. Item two is the College Terrace Traffic Calming Plan Trial Evaluation. The item reads here as a recommendation to City Council regarding the trial evaluation of the College Terrace Traffic Calming Plan. In opening remarks I would ask that Staff clarify as to whether this is a recommendation to City Council or a recommendation to Staff. So with that Staff you have a presentation?

Reports of Officials:

2. **College Terrace Traffic Calming Plan Trial Evaluation** – Recommendation to City Council regarding the trial evaluation of the College Terrace Traffic Calming Plan.

Ms. Caporgno: Thank you Vice-Chair Tuma. This is a recommendation to Staff primarily. Just to give you a little bit of how we got here. The City has established guidelines for traffic calming process for the trials on traffic calming. What they entail is that the trials are referred to the Planning and Transportation Commission for major collectors, and for local streets Staff can just initiate the traffic calming projects. In this particular case because even though these streets are local they were referred to the Planning Commission because of the significance of this area. The Planning Commission had originally referred the trial itself to Staff to undertake and it was undertaken. Now we are back to readjusting the trial in particular on College Avenue. So that is why we brought it back to the Planning Commission for that referral. We also wanted you to be aware of where we were with this process so you had a better understanding. We are anticipating coming back to you shortly after the beginning of the year, after this six-month extension occurs, to recommend approval on the entire traffic calming program. Then that would go to Council. So Shahla Yazdy, our Transportation Engineer, has worked on the traffic calming trial and she is here to introduce our consultant, Jim West from Kimley- Horn who prepared the analysis. The two of them will give you a presentation. Thank you.

Ms. Shahla Yazdy, Transportation Engineer: Thank you. Good evening Commissioners. I will be going over the College Terrace Traffic Calming Plan Trial Evaluation. As Julie had mentioned the one-year trial is now complete and Staff with consultants has put together or conducted over a year long process with project advisory committee and the College Terrace Board along with the consultants. Tonight we are recommending that the Planning and Transportation Commission implement and recommend the traffic calming features as shown on the modified plan to extend the trial for another six months, and also to request Staff to report on the effectiveness of the modified plan trial within six months of implementation.

I would like to introduce our consultant Jim West and he will be continuing with the presentation.

Vice-Chair Tuma: Thank you. Welcome Mr. West.

Mr. Jim West, Kimley-Horn and Associates: thank you very much. I am very happy to be here to talk about the College Terrace plan. Because some of you and some in the audience may not have participated in the earlier traffic calming work I wanted to take just a moment to talk about a little of the history of the traffic calming plan, then present some information on the before and after results, discuss briefly some of the comments that we got from residents of the

neighborhood, discuss some of the alternatives that are being proposed and how we want to move forward, and then next steps of the project.

As you know the College Terrace is in the green overlay area located between Stanford University and the Stanford Research Park. Many, many years ago several of the streets were closed to try to help protect the neighborhood from traffic cutting through the neighborhood. However, over that period of time those volumes have grown which prompted the traffic calming plan, which we worked on a few years back. That plan was worked in development with a project advisory committee, the neighborhood leadership, residents, and the City. That plan was supported by a survey in which 71 percent of the respondents supported that plan. It was approved by the Council in November of 2004 and following design those features were installed on a trial basis in 2006. This figure shows those improvements which were implemented that included four speed tables on Stanford Avenue, two speed tables on California, four traffic circles on College, another traffic circle at the intersection of Cambridge and Yale, and then there were a couple of minor stop sign changes.

In order to be able to assess the effect of that traffic calming plan data was collected before the implementation of those features and then it was collected a couple of times after. The results of that are summarized in this slide. Basically the number of speeders over 25 miles per hour, which is the posted speed limit on all the streets in College Terrace, went down based on the available data that we had. The number of speeders over 35 miles per hour went down on Stanford and California. We had mixed results interior to the neighborhood. That was really a result of the fact that people in the neighborhood generally travel between 25 and 30 so we really didn't have very much data over 35 or above. So therefore it is kind of inconclusive what happened with those. We had a volume drop on all but two streets. The exceptions were California where traffic was actually diverted out of the neighborhood and pushed out onto California where it is more appropriately located. So we saw a segment of California go up. Then there was a one-block segment of Princeton that went up by about 17 cars, so not much of a change on that. All the other streets saw a volume drop. In total we saw a drop of about 1,100 vehicles cutting through the north-south streets of the neighborhood. So we felt like the program was effective of what we were trying to do which was to really reduce both speeding and volume in the neighborhood.

In summary, we had general support particularly for the speed tables on California and Stanford. I think people really felt they did the job they were intended to do addressing speed and volume as well as making it easier to cross the street, particular for Stanford, which is very difficult to cross at the un-signalized locations. There were mixed opinions on the traffic circles along College. Even though they did reduce volume and speed there were concerns that were raised after the implementation regarding safety for pedestrians and bicyclists just because of the way the vehicles have to drive around the circle. There was some confusion as to who had the right-of-way when they approached the circle. As a result of that there was a petition circulated through the neighborhood where a number of or quite a few people signed that petition to ask for the removal of the circles.

In response the City removed the traffic circle at College and Hanover and restored the stop signs as they were previously to the implementation. That was the location that people seemed to comment on the most. Stop signs were reversed back to the original conditions at College and Columbia. In the meantime process was initiated to work with a project advisory committee to

take a look at what else could be done to enhance the traffic calming program. The objectives of that plan were to retain the speed and volume benefits that we had already achieved and then try to enhance those if possible, then also to focus on improved mobility and safety for the pedestrians and bicyclists. One of the first comments that we got was can't we just use stop signs to address all of our traffic calming needs? Stop signs are a regulatory device and are not intended for traffic calming. There are certain thresholds that need to be followed before those are implemented. Within Palo Alto these are the thresholds that the City follows. It could be used as a precursor to a traffic signal or if you have a very high accident location, the number of accidents in a 12 month period, or if you have very high volumes or delays at a particular intersection. In each of those locations where we had traffic circles it didn't meet any of these, did really even come close to any of these, to be able to justify the use of adding more stop signs in the neighborhood.

So we looked at other alternatives of what could be done. Working with the project advisory committee as well as the leadership of the neighborhood this was the plan that was developed. It went through a number of different iterations on this but the recommendation was to retain the speed tables on Stanford and California, and then add an additional speed table on upper California, to remove the traffic circles at Columbia and Oberlin recognizing that the Hanover one had previously been removed, install median island and speed humps on College. Let me comment just briefly on that. The median islands would be located basically where the traffic circles were removed. The purpose of those islands would be twofold. One is to provide a refuge for pedestrians who are crossing College, and the second is that on some of those side street traffic does not have to stop. In the past one of the comments we got was if there is no stop sign for that particular movement drivers tend to cut the corner, not slow down, and kind of fly through there at risk to the pedestrians. So this feature actually requires the vehicles to slow down and go around it so that they have to go very slow, and again provides a refuge for pedestrians. The speed humps would be located as close as possible to halfway between the stop signs on College. Those would help slow traffic and minimize and reduce some of the cut-through traffic in the neighborhood. The last one would be to add curb extensions to the remaining two traffic circles on Yale. What we found was that when there are not parked cars near the circles vehicles can actually kind of run in the gutter and zip around those. So the effect is not as great as intended. When cars are parked there they basically work as expected but this would make them work 24 hours a day regardless of whether or not there were any parked cars in the vicinity.

There was a survey sent out to the neighborhood to gauge interest both in retaining the tables on Stanford and California as well as whether or not the neighborhood wanted to pursue a modified plan or perhaps just keep it as it is, or perhaps just take off all the traffic circles all together. The results are shown here. Surveys were sent out to all the household in the neighborhood, 274 responded which is 30 percent of the neighbors. Eighty-three percent of those who responded wanted to retain the speed tables. So there was very wide support for that. For the modified plan we had two-thirds of the neighborhood supporting that. A much smaller number said let's keep it as it or let's just take those circles back out completely.

So the recommendation based on the neighborhood survey would be to modify the plan and go back out for another six months. Then at the conclusion of the trial period would be to collect some additional after data to see how those modifications performed and then come back to you

and the City Council with those results. That concludes my presentation and I would happy to answer any questions I can.

Ms. Caporgno: I just wanted to correct something I said. I had mentioned that we don't have to come to Planning Commission for local streets and I implied that all three streets are local. The only local street of these three is College and that is where the modified extension or trial is going to be taken. So that is why we were saying that there isn't – we came to the Commission anyway because we wanted to get your input.

I wanted to also let you know that at the conclusion of the six-month trial we will go back out to the College residents and they will have an opportunity to vote on whether or not they felt that the extension and the modified plan work. Then with that information we will be bringing back the entire plan to the Planning Commission and Council.

The final comment I wanted to make is we did receive questions from Commissioner Keller and we responded to those and they were provided at places. I don't know if you want us to walk through those or if you have had an opportunity to review them but we could go through them if that is the Commission's desire.

Vice-Chair Tuma: Commissioners, my sense is that the questions here and the answers are very short. I think we can digest them. I do know that Commissioner Keller had a follow up question to one of those answers. So in the absence of hearing any desire to have each of these gone through maybe we will just have that one follow up question and then we will go to the public.

Commissioner Keller: Thank you. With respect to question two regarding curb extensions I am not sure I understand the answer about street sweeping because according to Attachment G, page 2, it says the curb extensions are separated from the gutter. So I am not sure how street sweepers would sweep the section between the curb extension and the gutter, which might well get clogged with leaves in the season when leaves fall. So I am not sure that that response actually responded to the question as I intended it.

Mr. West: You are correct because it does not connect to the curb the sweeper can't get in that one small area to sweep behind the curb extension. The sweeper can sweep out in front of it but you are correct that there may be occasions where the leaves will collect in there. One of the reasons that this particular style of curb extension was recommended is just simply a budgetary issue. If they are connected to the curb the cost of that extension grows significantly because often times you have to modify the curb to connect it, then you end up with a drainage issue and a lot of times you have to install a drainage inlet, and obviously that is a lot more money. Because of the budget that the neighborhood had available for the program that is why we have that recommendation. You are correct there may be a collection of leaves there.

Commissioner Keller: The other half of that question which I am not sure I understood the answer was the issue of bicyclists. It was mentioned that if there are no cars parked on the – then the idea was to divert cars so that they don't go straight through they have to go into the middle of the street and sort of zigzag back and forth. However, if there are no cars there bicyclists also have to be diverted and I am wondering if that poses a threat to bicyclists or whether it – I am not sure whether this makes sense or not but if the distance between the curb extension and the curb were slightly wider so that the bicyclist can go through then they wouldn't have to zigzag and be

exposed to traffic in that direction causing a narrowing. I am not sure whether that makes sense. It might be worthwhile considering for that. I am not sure that means that drivers might try to go in between. I have seen that happen on various speed bumps and speed humps too. Do you have any comments on that?

Ms. Yazdy: Well, the curb extensions would be as wide as if a car would be parked along the curb. So basically my comment or my response about the curb extensions not impacting the traveled ways, as bicyclist would pretty much share the road with the cars traveling in whatever direction. So the curb extensions wouldn't come out any further than a parked car would.

As far as whether a bicyclist would want to go around between the gutter and the edge of the sidewalk that is something I am sure you could do but that is something that we can't control.

Commissioner Keller: Okay, I just want that considered because one of the issues is that if there are no cars parked there then the bicyclists is usually going to be on the far extreme of the road and you are asking for the bicycles and the cars to merge in order to go past the curb extension into that. So I don't know whether you would consider that causes a hazard for bicyclists or not.

Mr. West: We can certainly take a look at it. Because they only stick out about seven feet from the curb, which means that the extension is probably about six feet wide, and then there is about a foot or so between the end of the feature and the face of the curb. If we were to make that opening larger essentially that curb extension would become fairly narrow which can actually create a safety hazard for vehicles in that it becomes very hard to see at night because it just doesn't really have enough target value as the drivers drive down the street. They don't see any parked cars, sees the circle, starts to kind of head for the gutter, and then oh my gosh there is something in the road. So there is a tradeoff we have to deal with. If it were a much larger feature, maybe stuck out about ten feet or something like that, if the road was wider and we could get a ten footer and then we shaved four feet off of that we certainly could accommodate that. It becomes a little trickier when it is a much smaller feature like we are talking about.

Commissioner Keller: Thank you. Perhaps reflective paint might be helpful here but thank you for your comments.

Vice-Chair Tuma: We are going to go to members of the public. I have five cards. Each speaker will have three minutes. The first speaker is Greg Tanaka followed by Andrew Feiter. Welcome.

Mr. Greg Tanaka, Palo Alto: Thank you. Dear Commissioners, good evening. I am President of the College Terrace Residents Association speaking on behalf of the CTRA Board of Directors and the CTRA Traffic Calming Implementation Committee. Thank you for the opportunity to speak.

Some of you may not have been here when the initial traffic calming efforts were first started. The neighborhood effort started ten years ago to this month to consider alternative solutions to the speeding, safety, and cut-through traffic that affected our neighborhood during the height of the dot.com boom. Cut-through traffic was especially heavy because the neighborhood is in between Stanford University on one side, the Stanford Research Park on another, and the El Camino Real on yet another.

We are submitting this _____ to encourage implementation. There are several reasons for this request. Quantitatively as indicated by the Staff Report the College Terrace voted in a neighborhood-wide City run survey by over a two to one margin for implementation of this modified plan. This was based on a relatively high survey postcard return rate. While the initial traffic calming trial helped as expected especially on California and Stanford Avenue, on College Avenue some of the traffic circles were not as effective and seemed to cause safety issues. The modified plan will address these issues. Qualitatively based on many neighborhood meetings and numerous resident feedbacks both in person and by email the overall College Terrace opinion closely aligns with the quantitative survey results to be working. Only minor tuning is needed which the modified plan will be implementing.

Finally, CTRA Traffic Calming Advisory Committee spend numerous meetings over the course of many months brainstorming, evaluating, and debating the causes of the issues with the original trial and possible new solutions with City Staff and the Traffic Engineer. Nearly half a dozen plans were developed and debated before the modified plan was finally unanimously agreed upon by the committee. The committee members represented a diverse group of residents throughout College Terrace who are interested and committed to finding a solution. While the modified plan is unlikely to be completely flawless the plan does _____ and implement the modified plan. Thank you for your time.

Vice-Chair Tuma: Thank you. Andrew Feiter followed by Jeff Justice.

Mr. Andrew Feiter, Palo Alto: Good evening. As a College Terrace resident and member of the traffic calming committee with four children, two currently at the elementary school at Escondido, and two more on their way, I encourage you to approve the modified plan trial that was before you today in the slideshow.

From the slides you saw that the CTRA Board, which Greg represents, the CTRA Committee, which I am a member of, and there are other members here, and two-thirds majority of the residents who returned their survey voted for the modified plan in spite of the fact that there were three choices on the ballot. We still got two-thirds vote even though there were three choices. We have City Staff and hired consultant also supports the modified plan. Through numerous meetings, input, and feedback we have come to the compromise of the modified plan. Although I would prefer more extreme traffic calming measures I think the modified plan is a reasonable plan worthy of implementation to make our neighborhood a safer place. Thank you.

Vice-Chair Tuma: Thank you. Jeff Justice followed by Don Fidler.

Mr. Jeff Justice, Palo Alto: I live in College Terrace. The problem is that we are a residential neighborhood sandwiched between a very large university and a very large industrial park. To keep our neighborhood walkable we put a lot of effort on traffic calming. When the plan that is currently in place went into effect we were really happy that it did reduce speeds on Stanford and California but we were upset that we actually got a reduction in safety on College with cars swinging into the pedestrian lanes. So for almost a year now we have been talking about ways to fix that. We came up with the modified plan. There were a million other ways to do it but that is the one that we came up with. It may have a few problems like the bulb outs but there are a million plans we went through and that is the one that we have right now. Thank you.

Vice-Chair Tuma: Thank you. Don Fidler followed by Steven Woodward.

Mr. Don Fidler, Stanford: Thank you. I brought some handouts. I brought ten copies if someone could pass them around so I can refer to a couple of attachments. I think it would be helpful if you saw those.

Thank you for having me here. I live on Cottrell Way, which is off of Raimundo, which is off of Stanford Avenue. I live in the Stanford Faculty Staff Housing section. The goal of traffic calming is to reduce injury accidents and yet there is no information in this report coming before you on what the before and after accident rate has been. In addition traffic calming has a negative aspect and that is that it increases emergency response times, which is another public safety issue. Emergency vehicles are most affected when they have to cross over multiple traffic calming devices to get to their destination. If you look on Attachment 1, which is just the original map, you see that from Fire Station 2, which I wrote on there almost anywhere you go to get across or through Stanford College Terrace one has to cross in many cases multiple traffic calming. Yet in tonight's report and in the report before you there is no mention of traffic calming, there is no before or after statistics about response time, and there is no before and after statistics about what has changed with response time. As you mentioned earlier Stanford Avenue itself is a collector road and many cities ban traffic calming on collector roads because they serve other communities. So look at the map on page 2, which is just a Google map of our area, and yes indeed our Stanford residential community lives right up the road off of Stanford Avenue. Stanford Avenue is our principle avenue for coming and going into this community, which we also live and work. I pointed this out to Gayle Likens two and a half years ago and strongly recommended that our residential homeowners association, the Stanford Campus Residential Leaseholders Association, be included in tonight's report with input as to how this traffic calming is going. I had hoped that we would see some response time data but our Director told me that there has been no contact at all whatsoever.

Our fire department serves both of our communities. In fact you probably know that we at Stanford pay extra through our ground rent for fire department services. I would hope that we would have a say in response time as it affects us.

On Attachment 3 you see the mitigation that was offered at the beginning yet that hasn't been followed up. What is a substantial increase? What is within and near? If they can get there in four minutes is that good enough? It doesn't seem like it if you live down the street.

I knew I wouldn't quite get through all of this. The next attachment is very important to you because it shows that response times citywide have gone up by a minute over the past year. One of the reasons for this is traffic calming devices. I thank you for the volunteer work you do in our community. You are needed to look into this more carefully and get a balanced viewpoint from police and fire so that we make the right balance between traffic calming and response times. I am sorry I couldn't quite hit the highlights I wanted to.

Vice-Chair Tuma: Thank you. The final speaker will be Steven Woodward.

Mr. Steven Woodward, Palo Alto: Thank you for the opportunity to speak. I got involved in this issue after watching my daughter try to cross Stanford Avenue to attend Escondido School,

something she had to do approximately 200 days a year. She is now a sophomore at Paly and I am gratified that we are getting to this point before she actually graduates out the Palo Alto schools. I think I am very comfortable saying that it is a safer situation for children crossing Stanford Avenue in particular and that the extension of this work to the internal streets of College Terrace will benefit students in the interior of the community as well. Thank you.

Vice-Chair Tuma: Thank you. I want to ask Staff if they have any responses to the materials from the previous speaker but before we do that Commissioner Keller had a follow up question for Mr. Fidler if you could possibly come back up to the microphone.

Commissioner Keller: Thank you Mr. Fidler. You said that you live on Cottrell Way I believe.

Mr. Fidler: Yes.

Commissioner Keller: Thank you for the map here. Do you know whether Cottrell Way is served by the station on Hanover or served by the station off of Campus Drive on Bonaire Siding?

Mr. Fidler: I was told by the people at the Hanover Station that they serve my neighborhood. I am told that Page Mill Road is the obvious quicker way to get to my neighborhood but we all know that at rush hour every evening Page Mill Road is impassible and therefore going through College Terrace to Stanford Avenue is the shortest way to get to my neighborhood. However, I must say it is the fire department that needs to say what they really do not me.

Commissioner Keller: Thank you. I know that on Peter Coats Road which presumably would be the route the fire department would take from Hanover Station along Page Mill Road I am wondering if you are aware of the intersection of Peter Coats Road and Stanford Avenue?

Mr. Fidler: Of course.

Commissioner Keller: Approximately ten or 15 years ago Stanford University created a traffic calming measure to prevent free right turns at that intersection from Peter Coats Road onto Stanford Avenue.

Mr. Fidler: I remember they were there.

Commissioner Keller: Yes, did you have a say about that traffic calming measure being done on Peter Coats Road right turn onto Stanford Avenue?

Mr. Fidler: No I did not.

Commissioner Keller: Do think any of the College Terrace neighbors had any say on that right turn?

Mr. Fidler: I have no idea.

Commissioner Keller: So I just think that in some sense we are giving you a lot more input into this process of the traffic calming for the City of Palo Alto measures than was afforded by

Stanford University to even their own residents nearby that were impacted by that traffic calming. Thank you sir.

Vice-Chair Tuma: Okay, Julie do you have some comments on the issues that were raised by Mr. Fidler?

Ms. Caporgno: Yes. During the six-month period as we extend this trial we would have an opportunity to discuss further with police and fire any of the issues that were raised. I don't know if Shahla or Jim have anything to add to that. This would give us an opportunity and when we come back for approval of the permanent traffic calming program then you would have that information.

Ms. Yazdy: I did want to make one comment. The fire department was involved in implementation of each of these devices including the circles that are currently out there right now, and also the design of the median islands and the curb extensions. So we actually did a run through with their devices for the placement of these measures.

Vice-Chair Tuma: Okay, great. Thanks very much. So with that we will bring it back to Commissioners for questions. Just to remind ourselves about what we are looking at here there are sort of three directions we could go. One is to recommend that the measures that are currently in place stay in place. Number two would be to take out what is there. Number three would be to implement the modified plan as proposed. So with that as a backdrop let's go to Commissioners. The first light I have is from Commissioner Fineberg followed by Commissioner Lippert.

Commissioner Fineberg: I would like to start by saying that I appreciate that Staff has brought this to the Commission. If I could follow up a little bit more on why it is coming back to the Commission. I am still confused about the action we are being asked to take. In the recommendation in the Staff Report it says Staff recommends that the Planning Commission implement the measures and evaluate and request Staff to report on the effectiveness. I was under the impression that we can't ask Staff or direct Staff to do anything that takes more than an hour. So how can we actually implement the Staff recommendation? Is this just courtesy feedback and so it is a two-way courtesy? What is our action?

Ms. Caporgno: The two of you may want to correct me on this but my understanding is that we have traffic calming trial guidelines and the guidelines indicate that we bring to the Commission initiation of these traffic calming measures to the Commission, and you authorize them, and then they are implemented. So this is not something that would take us more than the hour. It is a process in order to enable the public to provide feedback too. So it is coming to you, you authorize it, then the program will be implemented for six months, and then it comes back to for a recommendation to Council. So that is really what we are asking you to do tonight.

Vice-Chair Tuma: I just want to clarify that. We did talk about this is pre-Commission and really the function here tonight primarily is to have a public hearing to give the public an opportunity to comment on the proposed plan. I think Staff had also encouraged comments from Commission. Theoretically if we had a real problem with this we would recommend that they not move forward and go with one of the other alternatives. So those are on the table. Primarily

this is to give the public an opportunity to have a hearing on these modifications that are going to go forward. That was the explanation that we talked about the other day.

Commissioner Fineberg: Okay. I absolutely value that opportunity for the public to have input and have a place where their voice can be heard and heard openly. Julie, you mentioned that there are traffic calming guidelines. I have been on the Commission for a year so I am still very much learning. Are those something that are publicly available? Is that something that was in our Staff Report and I missed it? Where might I get them?

Ms. Yazdy: The traffic calming program guideline was developed in 2001 and Council did approve the program, which are the guidelines that we use to apply traffic calming measures in our neighborhood streets. This is available online for anyone including the public. This was the group – we did look at this. It is more like a procedural step-by-step and what the options for the traffic calming features are. It is available on the City website.

Commissioner Fineberg: Okay, because I would have preferred if that exists that I read that before this meeting but I can go catch up on this now. Okay.

I am hearing terms like speed humps, speed bumps, speed tables and I can't say that I understand all the subtle differences, and frankly I am not sure if I want to. The impression that I am getting is that a lot of this is an art and not a science and as we do experiments we learn from what we do what works, what doesn't work, and then you have to kind of layer into it the fact that people are not predictable, and people that drive or ride bicycles may not follow all the rules so they won't behave predictably.

So I am wondering if the results of other experiments with humps and bumps and lumps and tables are available to Staff and our consultant. Specifically I am thinking about some of the trials that were done on Louis Road. The first implementation part of it was a failure. It created more dangerous considerations and I can't tell you whether they went from lumps to bumps or what they were but they caused people to veer into the gaps for the fire truck wheels. They caused drivers that were normal law-abiding citizens to drive up on the sidewalks. There were numerous people including myself who were calling the police saying this is a crazy situation, fix something. So are the results of those trials, are the learnings from those trials available to you? Are those lessons being applied in what we are doing in College Terrace?

Ms. Yazdy: Well, I am not really familiar with what specifically was placed on Louis Road but I know that each one of our traffic calming features we do collect before/after data and all that is available and we do consult. I personally as far as speed tables and speed humps and the effectiveness and the before and the safety features but a lot of these measures like you said is really on a trial basis. Traffic circles that were placed in this neighborhood we realized that they are not working. We heard from the residents, we removed one of the features and then we kept on trying to come up with alternative measures. So data is available and I think there is more technical information as far as what would be best suited for what kind of neighborhood. Some features would address cut-through traffic. Some features are specifically for reducing speeds and volumes so all that is taken into consideration when we do propose a traffic calming plan for a neighborhood.

Commissioner Fineberg: Thank you. So I guess from what you are saying I would encourage some mechanism that there be retention of institutional knowledge. On Louis specifically, I may not have the right technical word, but they were wide really harsh bumps and then there were gaps for the fire truck wheels. So what was happening is if you went over it at anything over five or ten miles an hour it was so harsh that you slowed down way below what the rate of travel on the road was. I don't mean a five or ten percent decrease but people were slowing down to five and ten miles an hour so as not to have these bone jarring crashes over the humps or tables. What was happening is cars behind them were slamming on brakes, tailgating, road raging, passing in the other direction of travel, driving onto the sidewalk. It was creating dangerous situations. People were driving with their left wheel in the gap and the right wheel up on the sidewalk. I know that is all documented. I know it is on a different trial but if those learnings could be applied so as you are doing subsequent trials we retain that institutional knowledge I think that would be valuable.

Then onto some of the questions that Mr. Fidler raised. The modified proposal, has there been any comment from police or fire on that or that comment will be solicited as you go into the modified program?

Ms. Yazdy: Well we did consult them as far as the design of the new features for the program. Also, once we have finalized or at least recommendation for a permanent installation is where we are going to get the data as far as the delay in response times.

Commissioner Fineberg: Can you characterize the nature of their preliminary comments?

Ms. Yazdy: I will have Jim respond to that since he was part of the first installation of the traffic circles.

Mr. West: We actually had police and fire attend several of the neighborhood meetings when the initial plan was being developed. Obviously emergency response is their big item. The response we got back was there are some features that are very difficult for us to deal with and they actually were, if you can be supportive of a traffic calming feature, they actually were happy that we were recommending these speed tables which are a lot gentler for a fire truck to travel over. The typical increase in response time for traffic calming features is commonly between five and ten seconds. I will point out that although there are several features within the neighborhood and some of the streets are actually closed the height of the fire truck actually allows them to drive through the diverters whereas everybody else would have to go around. So when making an emergency response they don't necessarily have to go through all those features they can cut right through the closure and perhaps hit one or two or maybe less depending on which way they are traveling. That is a little bit more information on that.

Commissioner Fineberg: Okay. My last question. Are there any before and after the trial accident statistics? Do we have any way of knowing whether the trial that has finished has worsened the accident rate or improved it?

Mr. West: We don't have that data and the reason it wasn't collected is that typically on very low volume residential streets the number of accidents or collisions is so low that you can't really tell a trend. So you might have one one-year and then not another one for another three years or something like that. So it is very difficult to even come to any kind of conclusion. So

we had to rely more on the speed and volume data, which was sufficient to be able to draw some conclusions.

Commissioner Fineberg: Is there any expectation that with new development in the area the volume will change dramatically or the accident rate out of total trips will still be statistically insignificant?

Mr. West: I don't believe that the volume would go up particularly in the neighborhood sufficiently to change that.

Commissioner Fineberg: Thank you.

Vice-Chair Tuma: Commissioner Lippert followed by Commissioner Holman.

Commissioner Lippert: I just want to make a couple of comments and then I think I am going to make a motion on this.

First of all, on the original plan I was not a big proponent of the traffic circles to begin with. I think I asked a lot of questions about them. I have them in my neighborhood and I don't think they work particularly well. In fact, maybe it is just centrifugal force but I feel as though people speed up when they get to a curve. Maybe it is just something that is more in the mind than in reality but I don't think that they work particularly well at intersections. I have had a couple of close calls where people have pulled up to a stop sign where we have a traffic circle and in some respects we have to yield to them and let those people go through the stop sign because they are blocking the intersection, and they don't want back up at the stop sign. So I think in terms of facilitating traffic through the neighborhood at a slower speed that what is being proposed here in the modified plan is a lot better solution than what was proposed originally with the traffic circles.

MOTION

So with that I will make a motion that the Planning and Transportation Commission recommend the Staff recommendations to implement the traffic calming measures as shown in the modified plan, Figure 4, and extend the trial for another six months. I think the six-month timeline is great in terms of being able to gauge and see how well these measures work. Evaluate and request Staff to report on the effectiveness of the modified plan within six months of its implementation. I just want to add one other thing there. I think perhaps we should add to that Mr. Fidler's concerns and maybe have some data also presented at the same time on emergency response times and see if that has been affected at all by these new measures.

Vice-Chair Tuma: That last section, are you making it a formal part of the motion?

SECOND

Commissioner Keller: Second.

Commissioner Lippert: Yes I will make it part of the motion.

Vice-Chair Tuma: Would the maker of the motion like to speak any more to it?

Commissioner Lippert: Recently I returned from Guatemala and the one thing that rally stood out in my mind is that there are lots of stone streets, and where there aren't stone streets there are lots of pot holes, and where there aren't pot holes and calm traffic the other alternative of course is to put in cobblestone streets and lots of pot holes.

Vice-Chair Tuma: Commissioner Keller, as the seconder would you like to speak to your second?

Commissioner Keller: Yes thank you. First I would like to offer some friendly amendments to the maker of the motion. First I would like part of the motion to involve a reconsideration of speed tables versus speed humps.

Before I get there let me first give some nomenclature. Speed tables are gradual traffic calming measures that essentially involve a rise, a flat area, and a decent in shape and are much more narrow. What were originally placed on Louis Road were speed bumps however, rather than being the speed bumps placed in terms of asphalt on the road there were actually some rubber kind of thing that was actually screwed into the pavement. They didn't extend full width of the pavement they was stuff on the sides. I believe that was not for fire trucks I believe that was for bicycles. Because the speed bumps were so severe in their height....

Vice-Chair Tuma: Commissioner Keller, if I may, it might be helpful if you could run through your proposed friendly amendments first. It might be easier for the rest of us to just track what those are and then you can speak to each of those. It might be easier just to have that list first.

Commissioner Keller: The reason I went through this nomenclature first is so that I could explain my amendment. My first amendment is to reconsider speed tables versus speed humps as part of the traffic calming measure. I can go into more reasons why but that is my first amendment.

Commissioner Lippert: Do you have multiple amendments?

Commissioner Keller: Yes I do.

Commissioner Lippert: Why don't you make them all.

Commissioner Keller: Okay, so the first amendment is to reconsider speed tables as opposed to speed humps on College Avenue. The second amendment is to consider the curb extensions and the impacts on street sweepers and bicyclists. It is not clear to me that that analysis is complete. The third amendment is to have the street resurfacing follow the finalization of the traffic calming plan and not occur in the middle of the traffic calming plan in case we make a third iteration to it there are negative impacts on street resurfacing done as with what happened on Louis Road. They put the rubber things down, they put the street resurfacing in, they removed the rubber things, and now what you have are gaps in the surface. So that's why my third amendment is to request the street resurfacing follow the finalization of the traffic calming plan.

Commissioner Lippert: I will accept the third amendment. All that this is is a modified plan and it is not meant to be finalized. It is only a – we are basically testing it out and seeing if it works. So your third amendment there makes a lot of sense not to resurface the street until after we have gone through the trial and we have evaluated it.

The other two, I think that they have a plan here, I am supporting the plan. If they want to use speed humps and they say that speed humps are going to work let's do the speed humps, and see if they work or not, and if they don't then go to the speed tables. There is a very specific rationale and reasoning behind what is being proposed here. So I am not inclined to accept the first two amendments.

Vice-Chair Tuma: Staff, do you have some comments on these?

Ms. Caporgno: I just wanted to clarify one thing. As far as a resurfacing of the street it is my understanding that if we don't resurface the street now we lose the funding. So that is why the street was going to be resurfaced in the next few months. Given what is out there right now no changes to the program have to be made in order to resurface the street. On the two streets, Stanford and California, the neighborhood seems to be satisfied with that. In fact, we consider that to be the permanent plan it just needs to come to you for recommendation and Council for approval. The area in question still is the College portion of it where this modified trial will take place. I think that if the Commission recommends against resurfacing now we are just not going to be able to resurface now or in the future, but it is not going to be that we will have funding available in the future.

Vice-Chair Tuma: Did you want to make any comments on the other two recommendations that Commissioner Keller had put forth? Those were to reconsider speed tables versus humps and to consider curb extensions and the impacts on bicycles and pedestrians.

Ms. Caporgno: As far as to consider the impacts of the curb extensions that would be something we could come back with at the conclusion of the trial if the two of you agree to that. I would defer to you as far as the difference between the tables and humps and what the implications of that would be.

Mr. West: If we were to do speed tables they would be just like the ones on California and on Stanford which are 22 feet across. Speed humps are typically 12 feet across so about half that distance. Certainly we could interchange those the only possible problem that might crop up is just trying to locate the larger feature without interfering with drivers. We try to kind of put them in between where people are not backing out of their driveway right on the feature. It is not a really big deal but it is preferable. So sometimes it is a little trickier to miss all the manhole covers, and water valve covers, and things like that on the street if you have a bigger feature.

Commissioner Keller: Excuse me do you mean 22 feet or 22 inches in width in terms of front to back as opposed to the width across the street? I am confused.

Mr. West: From front to back 22 feet on a speed table, 12 feet on a speed hump.

Commissioner Keller: Twenty-two feet?

Mr. West: Yes, they are pretty big.

Commissioner Fineberg: Two car lengths?

Vice-Chair Tuma: Excuse me Commissioners. If we could let's take this in order and please ask to be recognized.

Commissioner Keller: Looking at the ones on Stanford Avenue and California Avenue I am confused as to really whether 22 feet, which would be essentially a car length or so, that these things don't appear to be that wide but I am surprised.

I am not suggesting that we are directing, in terms of my amendments, Staff to make these changes. I am suggesting that Staff consider these changes particularly in light of what Commissioner Fineberg mentioned of the lessons learned from Louis Road where speed humps were put in and because those were unsatisfactory those had to be replaced by speed tables. Essentially they were unworkable. My intent in having these two amendments to the motion is for that Staff consideration. It is not a direction to make a change it is a direction to actually do a consideration and evaluate that prior to implementation. That is entirely for Staff's discretion in working with the consultant.

So I will offer my first and second amendments again with respect to the street resurfacing I guess we should withdraw that. I am not sure why the street resurfacing money goes away that is kind of weird. It must be some money from somewhere else I am not sure why it has a limited life.

Ms. Yazdy: I would like to just comment. Public Works is actually the department that is actually working on the street resurfacing project for College Terrace area. We were actually very lucky to kind of put these elements of this project as part of their bid package where they gave us an estimate of how much it would cost. So if we were to go back – well basically they are paving the project and we incorporating whatever elements that we agree upon after tonight's meeting as part of that project. So I am afraid that they have funding that they need to use up for the project and I think the resurfacing project would move forward with or without these traffic calming measures.

Commissioner Keller: Based on my hearing from Staff I withdraw my comment about street resurfacing following finalization for this particular project. However, I do think it is bad practice in the future. So make a note for the future that don't bid out street resurfacing while traffic calming is in process until the traffic calming program is completed because you are going to have to extra rework.

Vice-Chair Tuma: There are some Commissioners that have not had an opportunity to speak yet so if we could move on to.

Commissioner Keller: I would like to offer my amendments and if the maker of the motion doesn't accept them as a friendly amendment I will offer them as a formal amendment for seconding.

Vice-Chair Tuma: Maker?

Commissioner Lippert: No, I don't accept any of the amendments.

AMENDMENT

Commissioner Keller: In that case I offer these amendments as formal amendments to the motion.

SECOND

Commissioner Fineberg: I will second it for discussion purposes.

Vice-Chair Tuma: Okay. Next to speak will be Commissioner Holman. Sorry, one second. City Attorney, with the amendments that have been offered do we now need to have the maker and seconder speak to those before we continue on with discussion?

Mr. Larkin: That has been the Commission's practice but it is the discretion of the Chair.

Vice-Chair Tuma: Okay. If we could be brief.

Commissioner Keller: I have already spoken to the rationale for my motion but I would suggest that the discussion that happens be particular to the amendment and then we come back to the discussion in general.

Vice-Chair Tuma: Secunder.

Commissioner Fineberg: I seconded this because I don't know enough right now to know whether Staff has firm reasons to believe that the humps are better than the tables. They might know that but it has not been articulated. So if we can allow, if the Chair would recognize Staff so they can comment. In my mind if Staff has analysis, has reasons that the humps are better that they put that forward, then I would defer to that. The second reason I seconded the motion is what happens with our recommendation to Staff if partway through the trial they figure out the humps are a horrible trial? Do they need to come back to us or can you pull the humps and change to tables mid stream? Is our recommendation binding or can you do what is best on the fly?

Ms. Yazdy: I will go ahead and respond to your questions. I just want to clarify your concerns about the speed humps on Louis they were different kinds of speed humps. I am sorry I can't recall the name right now, but there are two speed humps placed side by side with a gap in the middle. I can easily say that we no longer recommend or use those speed humps. The speed humps that we are proposing for College are actually used in a lot of our neighboring streets, local streets, in the city and residents have been very happy with them. We recently put some in on Lincoln Avenue and the trial is almost over and I have only been hearing positive comments. We have speed humps on Indian and Moreno and that is already made permanent. So the speed humps that we have recommended have a positive reception from the residents in the area and they have been very effective.

Ms. Caporgno: I want to say about the process, if in fact these didn't work and we wanted to modify them during this trial as I mentioned before since this is a local street our guidelines don't require we come back to the Planning Commission. So we would be able to make those changes. We just came for this extension and modified version because we wanted to bring you up to speed as to where we were and we wanted public input.

Vice-Chair Tuma: Okay. Commissioner Holman.

Commissioner Holman: Also I want to thank Staff and the neighborhood for all the due diligence and for bringing this to the Commission.

If wishes were horses, I am not trying to design this, but the reason College Avenue is so difficult with speeding is because it is so wide. So I was just wondering if there was any consideration of – well, two questions. Is there any maximum dimension for parking strips? Was there any consideration of increasing the dimension of the parking strips so there would be room to plant more trees and to narrow the street? Was that given any consideration at all? If so, was that a cost consideration that kicked it out or what?

Mr. West: We did look at a number of things including bringing the curbs out farther into the street and narrowing the street. That in itself really got kicked out pretty early just based on cost. There was a budget established that we were instructed to work within and we could tell that you might be able to do a block or so of that but you would probably spend all of your budget.

Commissioner Holman: That is really a shame, really a shame, but appreciate your looking at it.

I have concerns that I have raised before but just to kind of get them back on the table too for the traffic circles that are remaining how to make them vegetated, whether it is native plantings that are water sensitive or what. My uneducated just intuitive and experiential opinion is that some of the traffic circles that don't work they don't work because they are so ugly people don't consider them and they just run over them. So there is that aspect of it. Then the other aspect of it, understanding that these are temporary one, but if they are not vegetated or not well designed in some fashion or other they are just almost a visual blight as they remain. So what is going to happen in the long-term about getting traffic circles vegetated? I am going to ask two things at once. Also, the medians, it is a little bit hard to tell from the description if they are raised or if they are painted at grade. It is a little bit hard to tell from what is written in here what the description is. If they are raised what about the vegetation aspect of those? So if you would address both at once I would appreciate it.

Mr. West: As far as the medians the raised part is about five feet by five feet. That particular style is used in other locations around the city. Then there is some striping that goes with it to help direct cars to go around it and not run into it. Because it is pretty small generally those have not been – I don't believe that any of those have typically been landscaped in the city. With regard to the circles themselves I know that the neighborhood from the very beginning has said that it would be their desire to have those landscaped at some point in time and we have encouraged the same thing. I agree with your point that sometimes people's objections to the traffic circle are as much aesthetic as it is functional, so rather than having it be perhaps something unsightly for the neighborhood it could really become a real neighborhood asset. So we would certainly recommend that if it is possible to do that some time in the future.

Commissioner Holman: Would you be able to comment on the effectiveness of traffic circles, of whether they are something to behold as opposed to just a thing plopped on the pavement? What I am looking for is if there is a way to get stronger argument to get some additional funding to make them more effective by getting them landscaped.

Mr. West: It depends on a bit on the community. I will say Seattle is probably the best example of a lot of traffic circles and the style that we have in College Terrace is the Seattle style circle. They are fairly low cost to implement but they can be landscaped. In Seattle a large share of those are landscaped. The policy that they have in that city is they allow the neighbors essentially to care for the landscaping. The neighbors basically get a permit to go out there and water them and weed them on low volume streets. If for some reason the neighbors fail to maintain it and it turns out to be a weed collection location then the agreement with the neighborhood is that the city will come back and essentially fill it in with hardscape, some sort of concrete or stamped concrete or something like that. So there is a fairly good motivation for people to take care of it. I know in previous discussions with the neighborhood they have expressed interest that they would be happy to walk out there and water those and maintain those. That is just an example of how one community deals with it and again I think Seattle probably has somewhere in the neighborhood of several thousand traffic circles in their community.

Commissioner Holman: Probably if this community, not this neighborhood, but this community can care for a couple of donkeys on an ongoing basis we can care for some traffic circles. I am not sure what the agreement is or if there is one or if the City maintains the traffic circles south of Castro, but south of Castro in Mountain View there are some really beautiful traffic circles.

The medians, is there any opportunity for those to be large enough to be planting opportunities?

Mr. West: I don't believe so unless we removed quite a bit of on street parking. When we brought the fire trucks out the fire department brought there – get around them at a reasonable speed. So we had to keep those basically as I described otherwise we would have to pull a lot of on street parking. Because parking is a premium in the neighborhood as you know we didn't necessarily want to go in that direction either.

Commissioner Holman: Probably my last question. Well, one comment, I appreciate that not only that you couldn't but you didn't go with stop signs. I am not a fan of stop signs. They are not good traffic calming measures plus environmentally they have implications to air quality that is not very positive.

There was another question here. Is there any longer-term vision or opportunity that can just be kept kind of as a record that narrowing the street would be a good traffic calming measure understanding there is not funding to do it now? Is there any way to kind of keep track of that as a possibility going forward? Was it presented to the neighborhood that should they – sometimes there are improvements to neighborhoods that the neighbors are willing to kick in to implement. So was that considered?

Ms. Yazdy: Certainly narrowing of the roads is part of the traffic calming measures and options that any neighborhood would have. I think as Jim mentioned the cost is really a big factor, but that is certainly something that we could look into in the future if funding does become available.

Commissioner Holman: Also, I don't know if this was part of your discussion or not but if the neighbors would be interested in potentially raising their own funds to help implement some of this. It would probably be a property value enhancement. Those are all of my questions.

Vice-Chair Tuma: Okay, I have just a couple of comments. First, thanks to Staff for bringing this to us. I know it is not something that had to happen but I think having the opportunity particularly for the public to participate is terrific. Also, thanks to the members of the neighborhood who have participated not only in the initial trial but in developing the proposed modifications. I am quite pleased to hear that on two of the three streets we have kind of gotten it right and now we have the opportunity to tweak things a bit and see if we can get the third one right. So it sounds like the process has gone well and I am glad that we were able to look at things that didn't go well and take a shot at adjusting those.

As far as the proposed amendments go I am not going to be able to support those. I believe that we need to leave this to the experts. I am perfectly comfortable with us making comments and throwing out ideas, should you look at the speed tables versus the humps, should you consider these sorts of things as comments or ideas but to make them as direction or part of the motion I am uncomfortable with. I don't think we should be getting into micromanaging the professionals on these types of issues. So I am not going to be supporting the amendments however I am very supportive of the underlying motion. So I do not have any additional lights at this point.

AMENDMENT FAILS (1-4-2-0, Commissioner Keller for, Commissioners Tuma, Lippert, Holman, and Fineberg against, Commissioners Garber and Rosati absent)

As I understand it there were two amendments that were being offered which were to reconsider speed bump tables versus humps and also to consider curb extensions and how they impact bicyclists and street cleaners. So all those in favor of those two items being added as a formal amendment say aye. (aye) All those opposed? (nays) That fails on a vote of four to one, Commissioner Keller in support and Commissioners Lippert, Fineberg, Holman, and Tuma not.

So with that we are back to the original motion, which was essentially the Staff recommendation modified with an accepted amendment dealing – sorry, that was withdrawn about the resurfacing. So essentially the motion that is before us now is the Staff recommendation. Commissioner Keller, did you have one comment before we vote on that?

Commissioner Keller: I actually spent most of my time on the primary comments basically talking about the amendments as a midcourse correction to it as opposed to directing Staff to spend lots of time on a task. So I think that is an important distinction.

Secondly, with respect to the comment that was made on one of the slides with respect to the speeds over 35 miles an hour which are interior to the neighborhood my understanding with respect to interior to the neighborhood the amount of speeds over 35 miles an hour were relatively negligible and therefore essentially the changes there were in the range of relative error so were not significant. So they are saying that they are mixed really is not meaningful.

The third thing is I think that one thing to consider is the greenhouse gas impacts of speed humps versus speed tables. Considering that speed humps require slowing down and then speeding up while speed tables essentially don't require that much slowing down so people can go at a constant speed. That slowing down and speeding up is an interesting effect as to the implication of that for greenhouse gases and there is also implication of that for the fact that people tend to speed up more between features that cause them to stop or slow down dramatically than they do when something allows them to go at a constant speed. I am not sure that was thought of clearly.

It is also ironic that we have warrants that essentially mean that we cannot create stop signs except for very stringent warrants and yet we have even though you can't put a stop sign in which seems to be a scalpel we have the ability to put traffic calming guidelines which essentially is more like a bludgeon, a big heavy thing that you are putting in, very large measures that we are putting in and the warrants for those exist while the warrants for stop signs don't. I find that very ironic.

So the final thing is with respect to the raised medians at the College Avenue intersections please reflect the lessons learned from the raised median on Maybell and I believe it was Coulombe where essentially cars were running over that raised median when they were making left turns. So I would suggest that the shape of that raised median be adjusted to reflect to the ones on Maybell and Coulombe where they were rounded in order to avoid cars running over them. There were various other considerations that actually were a lesson learned from that. So I will support the motion. I would encourage Staff to consider those issues independent of whether they are made a formal part of the motion or not. Thank you.

Vice-Chair Tuma: A brief comment from Commissioner Holman and then we will vote.

Commissioner Holman: I am certainly not going to try this as a friendly amendment but I just can't overstress the importance of the vegetation. Again, with College Avenue being this wide I guess one suggestion with the proposed modification visually there is going to be an impact that won't be the most pleasant, it won't be awful, but it won't be the most pleasant. So the vegetation of the two remaining traffic circles is going to be really, really important going forward. I don't want the neighborhood to lose sight of that or Staff to lose sight of that. Even as a possibility if the neighborhood would take this on perhaps to vegetate the three traffic circles that are being proposed to take out before being taken out and see if there is any difference in result or response by traffic. That is for you all to decide.

MOTION PASSED (5-0-2-0, Commissioners Garber and Rosati absent)

Vice-Chair Tuma: Okay. With that I think we are ready to vote. All those in favor of the motion, which was essentially the Staff recommendation, say aye. (ayes) Opposed? That passes unanimously.

With that we will close item two.

We are now onto item number three, a Public Hearing on the Initiation of Zoning Map and text changes to the Ground Floor Combining District and Downtown Commercial Community (CD-C) Zone District. Does Staff have a presentation?

Public Hearings:

3. Initiate Zoning Map and Text Changes to the Ground Floor (GF) Combining District and Downtown Commercial Community (CD-C) Zone District.

Ms. Jennifer Cutler, Planner: Good evening Commissioners. This item is a City initiated action. The intent tonight is for the Commission to consider the initiation of possible zone map and text changes for the Ground Floor Combining District and for the Downtown Commercial Community, the CD-C, zone district, and to hear discussion of what these changes might include. Since this is an initiation the issue will return to the Commission for additional discussion once a draft ordinance has been prepared and which time they will make a recommendation to Council.

A map of the existing CD-C zoning Downtown as well as the location of the Ground Floor Combining District is available on the wall and we have actually put it up on the screen as well. Both the CD zone and the GF Combining District zone text in relation to ground floor restrictions are included in the attachments to the Staff Report.

One important element of tonight's discussion is to keep in mind that there are two places in the code where ground floor uses are restricted. So we ask everyone to try and state clearly whether their comments pertain to the Ground Floor Combining District or to the restrictions to ground floor uses which can be found in the CD-C District because those are slightly different but there are a lot of similarities and I know there is often confusion between those.

Staff has prepared several possible items that could be included in an ordinance revision and welcomes additional suggestions. Tonight we are requesting input on the four changes that were listed in the Staff Report. Those changes are one, increase in the vacancy rate, which is required in the GF Combining District. Two, is the possibility of allowing office and other uses on the ground floor of buildings within the CD-C District, but those that are located outside the GF Downtown core. Number three is to revise the boundary of the Downtown Ground Floor Combining District either expanding or contracting in places where appropriate. Number five is a discussion of differentiating between retail uses and restaurant uses and whether there should be a differentiation of those.

Staff is available to answer any questions and follow up with any additional research if requested.

Vice-Chair Tuma: Thank you. We have just one card from the public. I see we now have two cards from the public. So we will go to the public first before we come to Commissioners. You will have three minutes to speak. The first speaker is Herb Borock followed by Bob Moss. Mr. Borock.

Mr. Herb Borock, Palo Alto: Thank you Vice-Chair Tuma. I was in these Council Chambers when the use exception of five percent vacancy rate was included in the CD zone district regulations many years ago. I recall Council Member Levy opposing it because he said a five percent vacancy rate is a normal vacancy rate. The idea of permitting an exception at a normal rate didn't make sense.

I don't believe you should initiate any changes based on the Staff Report. This isn't something that is being brought to you because you asked for the Staff to bring it to you or the Council asked the Staff to bring it to you. It is coming from the Staff. Instead what you get on page 3 in the passive voice saying that somebody has recommended changes and this is some of those changes. I believe and if they are coming from people in the community there would be a letter attached as to whoever it is that is making the proposal. If you are being given examples I would like to see what the other suggestions are. If Staff itself has a recommendation as to what specific things should be changed that is what should be appearing in the report. There is a suggestion that this has something to do with preserving retail yet it has recommendations for areas that would make it easier for offices on the ground floor.

You had a discussion earlier this evening about how long it would be taking to do a Comprehensive Plan revision. Suddenly you are being asked on two items, this item and the next item, to make very specific changes in what seems to me a hurry, especially since the economic conditions at least in the minds of the property owners don't appear to be particular long-term, otherwise they would be lowering the rents enough to fill those spaces. So I don't see any particular reason or any crisis that requires us to suddenly change any of this. In any event, if Staff believes changes are warranted I would like to see a more specific recommendation with the authorship of the proposers. Thank you.

Vice-Chair Tuma: Thank you. Bob Moss will be our last speaker on this item.

Mr. Robert Moss, Palo Alto: Thank you Vice-Chair Tuma and Commissioners. I also remember when this first was enacted more than 20 years ago. Initially surveys were made Downtown of the vacancy rates on a regular basis. I can only recall one instance in the last 23 or 24 years when the vacancy rate was over five percent and that was a very brief spike and it went back down to about three and a half or four percent in about four or five months. So this is unusual. The other thing I found unusual about it is I have been tracking vacancy rates along El Camino particularly in the Barron Park/Ventura area since the mid 1970s. The last census I took was a few months ago and the vacancy rate was approximately 12 or 14 percent. That includes several properties that have been vacant for 25 or 30 years so you really shouldn't be counting them. In the last four months there have been three additional vacancies where people have closed businesses and gone out, which is not a huge amount even though there are something like 150 or 160 businesses along El Camino and El Camino Way.

Where Downtown seems to be having a significant problem I am not seeing it citywide. I am not seeing it on El Camino and South Palo Alto so I am kind of puzzled about this. I think it is a good idea to try to retain retail on the ground floor. It might be useful at least initially to put in a temporary increase in the allowed vacancy rate to maybe ten or 15 percent. But have it expire in two or three years when the economy has gotten better and go back to the five percent we have now because this is a very unusual situation. As I say, we have had very rare occasions where we have had over five percent. As Herb said full occupancy is usually considered a vacancy rate of three or four percent. So we have been better than that consistently.

The one thing the Staff Report has that I find interesting although I am not sure I would implement it is the problem with excessive restaurants. If you go into Downtown Mountain View Castro is very heavily restaurant oriented. There are very few shops to shop in. There are some down the side streets but it is overwhelmed with restaurants. This is not good for trying to

get a business type environment. So if we are getting a lot of restaurants we ought to look at putting in some kind of limitation so we don't have restaurants taking over the temporary retail vacancies and driving retail out in the future. So that is something you can consider.

The other aspect is this is revising the boundary and I am not sure whether that is really something you want to do now. I am not sure whether you want to make it bigger or smaller or where you would change it and why you would want to revise it. So without a compelling reason for adding or removing blocks I think it probably ought to be left the way it is.

Finally, the office on the ground floor, if you are going to allow that it should be done very carefully and very cautiously. Office uses will drive out retail. One of the biggest problems you have with an office use is they close at five o'clock and they go home and they leave a vacant building and it kills the vitality of Downtown. So if you have too many offices on a block it is really bad for retail. I would be very careful about allowing additional office on the ground floor. Thank you.

Vice-Chair Tuma: Thank you.

Mr. Williams: Mr. Chair can I make a couple of comments please before you deliberate?

Vice-Chair Tuma: Yes, please go right ahead.

Mr. Williams: Thank you. I just wanted to respond to a couple of questions and add a little bit more to the Staff presentation. First of all as far as the initiation of the ordinance goes this is something that has come upon us not in the last few days but in the last year certainly. Jim Keene in his new role as City Manager and I, as well as Steve Emslie and the Staff you see here, have met several times on this issue and our concern about the amount of vacancy that is in Downtown. Downtown is one of our major sales tax generators and we have had a couple of inquiries from property owners who have looked at this section of the code on the Ground Floor Retail and the five percent vacancy and asked what is it now and how can I request putting in an office use? I have somebody on the second floor in my building and I would like to extend them down. They are ready to jump down and take that office space if they can. We have basically told them we don't do the count until the end of the year, that is what the code says, and then we will talk about it. So we have had a lot of concern that we are going to get more and more of those kinds of requests as the vacancy rate, we know and when we come back to you we will provide a better inventory of this, but right now it is approximately 15 percent, triple the five percent number. So it is going to probably be awhile before it is back down to five percent. It is not just a matter of it is 15 percent and in six months it is going to be back down to five percent. So we are facing this issue right now.

We are also facing some issue about some of the properties on the perimeter of the Downtown area that have not ever really functioned very well as retail but they have had retail there, but they have been vacant for some time now and have not had retail replacements. Some of the properties on Alma and Lytton and that do not appear to be very good, particularly when they are mid block, very good retail spaces. To some extent that detracts from sort of the concentration that we have on University Avenue and the side streets there. So that raised our concern about is there a need to really look here at the fringe areas and providing more flexibility there and providing less flexibility on the ground floor of University Avenue and the GF zoning area.

Then we have certainly talked to some of the major landowners and businesses Downtown and our fear was that there would be a lot of resistance to raising this rate because they generally want to have a lot of flexibility for what to do, but actually we have gotten sort of the reverse. I think most of them are interested in preserving the retail. They know it is sort of synergistic with the rest of the properties they have there so there doesn't seem to be much objection in the GF area to doing that.

So in any event we thought it was important to bring this forward and try to do it. It is not a rush type thing where it needs to be done in the next month or even two months but certainly as we get into fall we would like to be able to get something to the Council so they can consider this and hopefully have something in place about the time or shortly after we do our next required survey and report out to them.

As I mentioned, there is the sales tax generation aspect of the Downtown. There is also sort of the question of if we do modify the vacancy rate what is the right number? I heard Mr. Borock and Mr. Moss talking about five percent was adopted awhile ago that is a standard number. I think we have to ask should there be any number? Should there even be a vacancy rate outlet here or should we basically be saying we want ground floor retail and it doesn't really matter how high that vacancy rate goes. I think someone said once that office gets established there then it is very difficult to move it out. The current language says that it is supposed to move out in five years. I wouldn't relish being the person to try to tell that office user that might be a very successful office user there that they now have to leave because the vacancy rate is back down to five percent and it was only a five-year approval in the first place.

So I think we really do need to look at these things in a timely way. We certainly are willing, as mentioned in the report, willing to look at the restaurant issue as well. That is something I think the people we have talked to Downtown are very resistant to change. They would like to have the flexibility to do restaurants and feel like that is almost the anchor of Downtown is I think what one of them said is that is what really brings a lot of people to Downtown. By the same token it does have, as Mr. Moss says, the effect to some extent of once you get a restaurant in somewhere there is a lot of infrastructure that goes into that in terms of equipment and tenant improvements that are often hard to undo to get retail reestablished in that place. So it is something we would certainly be willing to look at as part of this effort as well. Thank you.

Vice-Chair Tuma: Thank you. So procedurally just a couple of questions to clarify with Staff. The only thing we can do tonight is initiate or not initiate.

Mr. Williams: Correct.

Vice-Chair Tuma: We are not actually giving any specific direction on what the components of the changes would be. Although you have asked for guidance on not only the items you have listed as one through four but any other thoughts that the Commission has. You will be coming back with a draft ordinance if we were to initiate.

Mr. Williams: That is right.

Vice-Chair Tuma: Okay, great. So I have a question for Commissioners procedurally. It seems to me that we need to come to some consensus on whether we are going to initiate or not to make the discussion about what the recommendations would be with respect to what those changes might be. I would rather come to that consensus sooner rather than later in the discussion but I don't think people would necessarily be prepared to do that now. Again, I intend to do that with a straw poll and then assuming that we are inclined to move forward with initiation test each of the various components of what the recommendations might be also with straw polls to give some more concrete guidance to Staff. Does that make sense to folks?

If at any point people feel like we are there I think we should focus the first part of the discussion on to initiate or not to initiate and once we get there then let's get into the substance.

Mr. Larkin: Just to clarify the initiation itself takes a motion but in terms of any guidance on what would actually go into the changes that would just be done with a straw poll because the Commission can't really act on that tonight.

Vice-Chair Tuma: Okay, just to clarify that. We wouldn't necessarily want a motion that was voted on prior to getting into getting into the discussion about the other items, correct?

Mr. Larkin: I don't know that it matters what order it is done. I think obviously if you are not going to initiate it is not worth getting into the other items.

Vice-Chair Tuma: That is what I was trying to avoid. I want to make sure that everyone is or I don't want to have a whole big long discussion about topics if we are not going to initiate.

Mr. Larkin: I think rather than do a straw poll and then a vote you can just vote to initiate and then talk more about what you would want to see come back.

Vice-Chair Tuma: Okay, fair enough. Great. Commissioner Holman.

Commissioner Holman: We have had some other items that have come to us for initiation and sometimes we end up getting into a lot of fine grain detail about what would actually be coming back to us. So what I am hoping we can avoid is getting into the arguments pro or con, different aspects of what might come back to us but rather focus on the kinds of things that we would be interested in seeing in what would come back to us.

Vice-Chair Tuma: I would concur with that completely. So with that I have lights from Commissioners Keller, Fineberg, and Lippert in that order. Commissioner Keller.

Commissioner Keller: Thank you. I believe we have had problems in the past of making a motion, which was voted on, and then having comments follow the close of the motion. We have been told in the past that once we make a motion we may not comment further on it. We were once told that.

Mr. Larkin: I don't know why that has been a problem. Because of the way that this was agendized it is agendized in a way that would allow you to make comments. What you can't do is direct what goes into the motion until that is in front of you because tonight you are just

initiating. I think you can make suggestions as to things that the Staff should be coming back with as items to explore.

MOTION

Commissioner Keller: So with the understanding that we can make a motion, at some point vote on the motion, and continue to make comments I am going to kick it off by making a motion that we initiate. Then after that I would like to come back and make some comments.

SECOND

Commissioner Holman: Second.

Vice-Chair Tuma: Okay, motion by Commissioner Keller and seconded by Commissioner Holman that we initiate. Would you like to speak to the motion?

Commissioner Keller: Yes. Firstly I take credit or blame for this particular item. When we talked about the retail report for the Comprehensive Plan discussion a few months ago and that was coincident with the Report to Council based on the study that was done in 2008. At that point I specifically mentioned that we need to consider bumping up the threshold. There was a member of the public that commented that this did not come from the Commission and in fact it came from me and I don't remember if there were any other comments from Commissioners about it but I do specifically remember having mentioned that.

My thought or rationale at the time was that if we were to allow because of a – there is a difference between a blip, which this is essentially a blip. We hope that this is not a long-term trend. We hope this is a temporary thing because of a deep recession. If it were a long-term trend then you might consider allowing office to creep in but essentially that would be the death of Downtown because you would be getting Swiss cheese. You would essentially have offices creeping in creating holes in the retail of Downtown and thereby losing the vibrancy of the mix of kinds of measures.

I will basically want to come back after we vote on this make more detailed comments but essentially I think that we need to do this in order to prevent making Downtown into a Swiss cheese of retail with holes of office. Thank you.

Vice-Chair Tuma: Commissioner Holman, would you like to speak to your second?

Commissioner Holman: Just briefly. I appreciate Staff bringing this forward and appreciate the proactive aspect of it. I think we should initiate for a few reasons but among those primarily would be the preservation of existing and ongoing retail uses. We need to support them with the continuation and the synergy, as you mentioned Curtis, of other retail uses. So that is why I seconded the motion.

Vice-Chair Tuma: Okay, would anybody else like to speak on the motion? Commissioner Fineberg.

Commissioner Fineberg: I have a question for Staff that goes specifically to the need for whether or not to initiate. It relates specifically to the discretion that the Director has when reviewing and approving an exception. We are now in a condition where we are in excess of the five percent vacancy and a property owner may bring forward an application for the exception. Does the Director have the discretion to simply say no? Can the Director say no sometimes? If they say yes sometimes must the Director say yes in all similar cases?

Mr. Williams: Well, I think there are some findings and determinations that need to be made. It says an application for uses permitted if the application is made and the vacancy rate is five percent or greater, demonstrate that the ground floor space has been vacant/available for six months, and then it is limited. Are there other findings?

Ms. Amy French, Current Planning Manager: We had a little discussion the other day at the pre-Commission meeting and Curtis was not available for that portion of it. Basically we discussed how there really are not findings here as you would normally see for a use permit or such. It just basically said if these conditions are met five percent and they can demonstrate then there are no other findings. So it would be rather difficult for the Director to say you haven't met the third finding because there isn't a third finding.

Mr. Williams: Yes.

Mr. Larkin: It would be a quasi-judicial decision by the Director. The only way that the Director would be able to deny the request is if he felt that it didn't meet the six-month standard or there wasn't the vacancy rate or they weren't actually trying to market the property. So there are areas where the Director would have discretion but it wouldn't be because we don't like this particular office use or anything like that.

Vice-Chair Tuma: I am going to chime in on this just for a second because we did discuss this at some length at the pre-Commission meeting and one of the suggestions at that point is part of what we certainly are in a position to do is to suggest that findings be developed. We may have some thoughts on what those might be but one of the possibilities coming out of tonight's meeting would be that findings should be developed, put together, and brought back as part of the ordinance where there are specific findings that need to be made. So that is certainly one of the opportunities that is before us tonight.

Commissioner Fineberg: Okay. So if the findings are met that the vacancy rate is greater than five percent or it has been vacant for six months the Director could not decide that it is not consistent with the goals of the Comprehensive Plan for retail retention, it is not consistent with Council's mandate to preserve neighborhood serving retail, so those policies and codes or programs I should say wouldn't be sufficient to support the Director in a no decision. Is that correct?

Ms. French: The first point is it is an 'and' not an 'or.' The second thing is there are other permits in the Title 18 like a Conditional Use Permit or other permits usually one of the first findings is that it is consistent with the Comprehensive Plan. So that would be one of the things we could consider adding into a finding but it is not there now.

Commissioner Fineberg: So without that the Director has no discretion and the answer is a yes and so we would be adding those controls. Okay, thank you.

Vice-Chair Tuma: Commissioner Lippert on the topic of initiation.

Commissioner Lippert: Yes. I would definitely support initiation. One of the reasons why I moved to Palo Alto, actually the area where we live is Downtown North, is because we are in proximity to the Downtown. One of the things that we really love about being near the Downtown is all the wonderful retail and restaurants and other services that there. We are able to leave our house, not take our car, and walk down University Avenue and treat it like it is a neighborhood shopping center. I wish that there were some other uses that were defined when we moved here to Palo Alto there were bookstores and movie theaters, which seem to have evaporated. I think that it is hard to regulate bookstores but they surely are missed in terms of the quality and character of Palo Alto. When we first moved here I think there were four or five movie theaters in the Downtown all within walking distance. Those would have been desirable uses to have preserved as well.

So I think that the crux of any smart growth and livable community is that we have a mix of uses and that includes the preservation of retail and commercial. So I would definitely support initiation of what is being proposed here.

Vice-Chair Tuma: Okay, great. Just to round out the crowd I am very supportive of this as well. My wife and I from time to time, because we live in South Palo Alto, we go over to California Avenue in the evenings. There are a couple of restaurants at one end but the rest of it has nothing going on and we talk about this from time to time. It is generally because they have a lot of office or the types of retail that close down early. So it is not a very vibrant section of town. We certainly don't want that sort of result.

MOTION PASSED (5-0-2-0, Commissioners Garber and Rosati absent)

So with that I am prepared to call the question and ask for a vote. All those in favor of the motion, which was to initiate these changes say aye. (ayes) All those opposed? That passes unanimously five to zero.

What I think would make the most sense here is to go down the line. If each Commissioner is prepared to when you get to your comments and questions address the four items that are on page 3, and if you don't have any comments or a position on any of those that is fine as well. Then add to that any additional items that you want to see considered. I will try to keep track of these and then we will do some quick polling in the end to make sure we give some clear guidance to Staff.

Mr. Larkin: Sorry to interrupt. You had asked me at one point to do the time checks and I was just going to point out it is nine o'clock. I think you are well on track but there is one other item tonight.

Vice-Chair Tuma: Right, thank you for that. That's great. We do have one other item and we would need to sort of make a decision as to whether we would start that item after ten o'clock if we don't think we can get through item three by ten. So Commissioner's thoughts, can we get

through all four of these items tonight and be done by eleven? Okay, very good point. So with that let's go down the list here. I have in this order Commissioners Keller, Fineberg, Lippert, and Holman, and then me if there is anything left.

Commissioner Keller: I guess I am next. So the first thing is that essentially we have an anomaly. I guess there are a couple of anomalous situations. First of all we have a very deep recession. It is interesting that the term depression came along because people were fearful of calling the Great Depression a recession so they created a new term called a depression, which turned out to be far worse. A little history for you.

So hopefully it is a big recession and not a depression this time. We also have the situation that essentially what has happened over the last ten or 20 years is that retail rental rates have gone up dramatically squeezing out things like bookstores, and essentially making it hard for movie theaters and other uses that provide a mix of uses Downtown. These rental rates have gone too high and it may be that the desires of landlords/property owners for how much rent they should charge are excessive and they need to recalibrate that to base market.

The reason I start off with those comments is essentially if you charge a huge amount of money you can keep a property open for six months. If somebody owned more than five percent of the Downtown retail, which probably exists, there are probably a number of property owners that own more than five percent of the retail Downtown. They could deliberately raise the prices on their properties, keep their properties vacant, and trigger this situation. Thereby allow themselves to get office space down there. Now I am not suggestion anybody would be as nefarious as to do that but it essentially indicates that there is problem with our current ordinance. Creating findings would go a long way towards reducing that but it seems to me that one of the findings if we were to have findings should be that based on the vacancy and the rent being asked in some sense is consistent with rents being chosen.

Now am I allowed to talk about specific properties as exemplary?

Mr. Williams: I think so as long as there is not any kind of permit in front of you for that property.

Commissioner Keller: Great, thank you. so the first thing I am not going to mention a particular property but there was a recent opening of a restaurant Downtown that replaced a restaurant that closed. I am not going to mention which particular restaurant it is. I happen to go in there to eat and asked the owner, so you are new here. This particular restaurant moved from an off University Avenue location to a University Avenue location and I asked how is the rent compared to the old place? The restaurateur basically mentioned that the rent is killing them and he or she hopes that they will be able to increase business sufficient to cover that rent. So it is pretty clear that rents are not being accommodated significantly in order to be able to accomplish fuller occupancy of these units.

Similarly, Bob & Bob off of Downtown on High and Forest was forced from Downtown because of the rents being too high. They relocated over to Los Altos on El Camino to essentially the middle of nowhere if you will. That business failed in part because of that relocation. Instead of lowering the rent, which could have been done to that owner and retail establishment, and keeping that retail establishment the rent is too high. In fact, since Bob & Bob moved out which

I believe was over a year ago that location is still vacant. So instead of the owner receiving some rent for that place, which would have been lower in order to be able to keep that establishment, we have a rent that is for this location that is effectively zero because nobody's paying it. So I think that is a consideration.

Vice-Chair Tuma: Commissioner Keller, if I may. We just collectively agreed we were going to try to get through this item and the next item by eleven o'clock. That gives us approximately ten minutes each to get through all the comments that are directly related to items that would or wouldn't go in a potential modification of the ordinance. So if you stick to focusing on those that would be great.

Commissioner Keller: I appreciate that. I think that that is important prefatory material for us to really understand what the impact of vacancies are and how they can be caused and not caused.

I think that it would be useful to increase the vacancy rate formula perhaps 20 percent with the understanding that we would revisit this in the future. In any event we should create findings, that is item one.

Item two I don't really understand the issue here because in some sense if you allow office use regardless of the previous use I am not sure I understand that. So I just request that that reasoning be clarified because it doesn't quite make sense to me. Do you want to respond to that?

Ms. Cutler: The issue there is the distinction between the area that is in the core of Downtown that on the map is in orange, those are the areas that are covered by the Ground Floor Combining District, and that is where we have the five percent vacancy rate as part of the code. The distinction that we were making in item number two is about all of the properties that are in yellow which are in CD-C but do not have the ground floor overlay. Since those areas are farther from the core there has been discussion that maybe a concentration of the retail uses along the center of this core is more important, and that maybe the fringes are not as appropriate for retail all the time. That we would strengthen the ground floor retail restrictions for that core, the orange area in the Ground Floor Combining District, but maybe loosen them some for the yellow area which is just the CD-C with no combining district.

Commissioner Keller: What restrictions do we currently have for the yellow area?

Ms. Cutler: They are very similar. The precise code is attached to your Staff Report. They do not contain this five percent vacancy rate.

Ms. French: I was just going to add specifically on number two what we are trying to get at there, the flexibility is right now if somebody were to go in there and it had been office and a retailer wanted to come in and occupy that space our code disincentivizes allowing that retail to come in because we are going to forever hold them to keeping a retail use there. Getting some flexibility would mean they could have a retail use come in there and then they could at some point maybe go back to office. So that is the kind of flexibility as an example.

Commissioner Keller: Thank you. So this is something that is referred to as a ratchet in that sometimes you can go one way but you can't go the other way. So essentially what you are allowing is to go both ways.

Mr. Williams: Right. So the real difference is the Ground Floor Retail District requires retail on the first floor, period. I mean a retail, restaurant, personal service type business. The CD-C District in general doesn't require those uses. It allows office and some other uses on the first floor as well except if you already have retail then you can't do anything else with it, like Amy said. Then if something right now is an office use, it is vacated, there is a change for retail to come in, I know there have been instances I have heard of where they ask if there is any flexibility and they end up not leasing it for retail because they don't want to get boxed in to where they can't convert it back to office in three years or so if the retail doesn't work out. So that really sort of frees the retail if it is there but if it is not there already then it isn't bound the way the Ground Floor Retail (GF) District is.

So this would look at that area and there are a wide range of options that we could look at as far as either just taking away that requirement so you had the flexibility to do either one, or we might define it in a specific way so maybe if it is at corners it would still be restricted to retail. Maybe we take the GF District and we extend it up to certain areas where we think that there are really viable retail pockets but other areas aren't restricted. So those are the kind of things we would be looking at and coming back to you with recommendations on.

Commissioner Keller: Another thing you can consider is in terms of the findings is whether there has historically been retail there, could be one of the findings to consider. That might be another way of handling it. So in terms of that now I understand what number two is.

With respect to number three I just want to make sure that we don't have islands of retail separated by office because that can be problematic. Even if you have a restaurant for example there is the Tamarind Restaurant on University Avenue at the intersection of Tasso. If you essentially make an island of that that may harm that restaurant if you don't have retail continuing up through there.

With respect to number to four I do think it makes sense to think about limitation of restaurant use. I think we have talked about that in the past. I realize that restaurants in some sense collectively make an anchor to the Downtown but there is another term for anchor, which is something that makes something sink. If we have too many restaurants Downtown could sink in the process of that and essentially become largely what Downtown Mountain View is which is a place to eat and then leave, or go eat and then go to the Theater Works and essentially nobody does anything else there as far as I can tell.

A couple of other quick comments. I am sympathetic with your issue that the use exception being a limited duration in some sense is problematic. The issue is that leases might be aligned with that use exception and you can make sure that the leases do not get renewed. People typically amortize their tenant improvements along the lease duration.

Also with respect to office on the ground floor I observe that if you look at 18.30(C).020(a)(7), which is Attachment C, it says entrance, lobby, or reception areas serving non-ground floor uses. There appears to be no limitation to that. I would suggest that you consider a conditional use

permit to the extent that an entry, lobby, or reception area exceeds a certain square footage. For example, the property on University Circle, if you understand what I mean by that, there is a new building that went in there which is a facebook building and the entire ground floor is an entry, lobby, or reception area for what used to be Bungee Travel that was a retail use. So by using this exception that retail use was essentially converted into an office use. So I think that is a loophole that should be covered by a CUP since it is more than simply a certain square footage.

Finally, I would like to reiterate my comment earlier about the retail rental rate being somewhat related to market rate under some discretionary thing should be considered one of the findings so that landlords can't charge excessive rental rates in order to obtain the six month vacancy that they should charge market rates. If this brings down rental rates to the extent that we can actually have new businesses thriving Downtown then we may get more of the mix of businesses that we had ten or 15 years ago as opposed to the ones we have now, which are essentially restaurants and high-end retailers, so more people in Palo Alto would find it desirable to shop there.

Vice-Chair Tuma: Commissioner Fineberg.

Commissioner Fineberg: I would like to start with a moments worth of prefatory comments. The situation that we are seeing with redevelopment on University Avenue in my mind is more complicated than simply a temporary economic downturn. Up until last September we had what I call a lot of funny money in the economy. Money that was being used to develop properties that were not viable, money that people were putting forward because there was no risk with the development. The financial collapse that happened and subsequent reregulation that is coming into play at the federal level is dramatically changing that landscape and that funny money at least until we have our next colossal mess is gone. When we have properties on University where landlords don't have tenants and landlords don't have lenders it is not the recession that is causing it. It is simply not a viable redevelopment. That development is not going to happen in six months. It is not going to happen in a year. They are going to have to have tenants. They are going to have to have financing and the economies in the project are going to be completely different. That is not Palo Alto process causing it. That is not residents causing it. It is not the Staff. It is just how the world is now and it is going to change slightly in six months or two years.

In order for developers, in order for property owners to plan they need a consistent set of predictable conditions. Right now they know they can come to our Planning Director and with a vacancy rate in excess of five percent they can convert to offices. If offices pay rent in excess of retail that is what they are going to plan on doing. They will run the numbers and if they can make more money holding it vacant for six months, they will do that, take the short-term hit, and then for however many more years they will have the increased revenue. So it is a simple economic calculation that a landowner will do in his or her best interest.

So we have the option of changing the regulations that change the behaviors that change the conditions that those landowners will use in making their decisions. On the first item I would be curious to have more discussion on whether 15 to 20 percent is the correct amount to trigger an exception process or whether no condition triggering that exception process would be a better state. Should it simply be an absolute it is GF that's that it will remain retail? I don't know what the impacts of either path would be. Do we have two landowners that own 30 percent of

Downtown that could easily trigger it? Do we have such a disparate ownership that no one could trigger a 15 or 20 percent vacancy rate? So we need to know what the concentration of ownership is.

I would also wonder if we have no condition under which there can be a conversion to office, do we then not need to have findings. I don't want to make it a simpler process just so it is a simpler process but if we have it as an absolute condition that there be no exception we don't have to go through the fine grain analysis of what are findings. If we want that flexibility to allow exceptions when appropriate then those findings become critical and I would want input from both the business community, Staff, and Commission in future discussions for what is going to work.

On the second point, thank you Staff for your comments because to be frank what was written in the Staff Report I did not understand the intent of what the second item is and with the additional comments from Staff it seems like a very reasonable incentive not just a giveaway. One question with that is would there be wisdom in adding some kind of a starting date for when it would become a two-way flow? So if it was retail prior to X date there is no converting to office so you don't lose from you have now and that would not penalize people that made the right decisions in the past. I think that is how that one would work. Then you won't lose the retail that you do have in your CD-C.

On the third one I would want to get some information about, I am kind of trying to ask you to predict the future, but is there any estimate of how many of those buildings in the CD-C would convert from retail to office or raise rents on retail to drive retail out? I don't have any sense of what those impacts might be. I would agree with previous comments that we don't want to turn it into Swiss cheese.

On the fourth item I would be in favor of a mechanism to limit the number of restaurants. When I go to Castro Street in Mountain View it is absolutely clear that it is a restaurant destination. Our University corridor is trending in that same direction. I would also want to see some discussion on if there are other categories of businesses. Do we want more nail salons and hair shops? I don't what other and maybe off University on the side streets are there other categories of businesses we are also seeing too many of? Would there be a way to make that something that could change as distortions develop? And is there mechanism to build in that if there is a distortion we could react quickly? That I think would be a good tool. That's it.

Vice-Chair Tuma: Thank you. Commissioner Lippert.

Commissioner Lippert: Well, the restrictions that were put on back in 2001 were based on the dot.com bubble or pre-dot.com bubble. At that time there were really significant high tech ventures that were poaching retail space and converting it into office space. That is why that was implemented. I would gladly welcome those times back at this point.

The truth is that when it comes to point number one what is important is that we have a blend of uses and mixes. That 15 percent, 20 percent, or five percent really doesn't mean very much. What is important is in order to have a viable Downtown you need to have commercial office, you need to have professional services, you need to have financial services, and you need to have retail, and they all need to be able to work together. Having ground floor retail really makes our

Downtown vibrant and alive, and it makes it a livable, walkable, usable community. To take retail space and convert it into more office space at a time when we have a vacancy in office space just doesn't make any sense. We have a glut of office space, empty commercial office space. I just don't see us having when the vacancy rate number trips being able to open up and make more retail space available for office space how that really benefits us. What we really need is a viable blend of retail, office space that is going to work and make the Downtown area vibrant.

So in some ways I was listening to what Curtis said and I almost support the idea of just forgetting about what that vacancy rate is completely and shoving it out the door, and saying look ground floor in that area is retail, we need it.

With regard to the second, allow offices on the ground floor of buildings. When you think about the Downtown it isn't just University Avenue, it is the fingers of streets that come off of University Avenue. In the time that I have been in Palo Alto we have seen how Emerson, the Emerson corridor, has become another almost like intersection of Broad Street and Market where we now have an annex down in the SOFA area, which is a viable retail district. So what I would want to see I guess is University Avenue and at least the first block on each side of University Avenue to be viable ground floor retail. What it does is begin to then expand the Downtown into other areas and begins to create a more viable Downtown. So I would entertain definitely looking at being able to expand and contract that boundary and looking at what that means.

With regard to differentiating between retail uses and restaurant uses I don't think so. I don't have a fear of Downtown Palo Alto becoming like Castro Street. In fact, Castro Street has benefited from Palo Alto. Book Buyers used to be in Downtown Palo Alto. Book Buyers is now on Castro Street. They have been there the last ten years. That is one of my favorite bookstores. I go to Castro Street to go browsing through used bookstores and CDs and whatever. I don't see a differentiation between retail uses and restaurants. I think it is whatever the market brings that makes us into a viable wonderful Downtown for being able to spend time.

Lastly, the only other thing that I really want to make a comment on, and now that it is on the table looking at this are banks. Banks are great activity killers. What I mean by that is banks are only open from nine to four. They generally in these days and times turn their backs on the street. They want to be secure themselves so they are not watching the street. They are closing themselves off from the street. My bank, which is Union Bank, has frosted their windows on one whole side. It used be that you could stand in the bank and look out across the street and you can't do that any more. Wells Fargo bank now has three branches on University Avenue. They have their private services, they have taken over the bank on Cowper, and they also have the other bank on Hamilton. How much market share does a bank need in order to remain viable? All that it does is kill those blocks from after four o'clock and in the early morning hours. So if anything I wouldn't limit restaurants I would limit banks maybe, financial institutions. So that is my two cents. I look forward to looking at the initiation and having more substantive things to bring back.

Vice-Chair Tuma: Great thanks. Commissioner Holman.

Commissioner Holman: Thank you. One quick nod to Commissioner Lippert. Bijou, Festival, Biographic, Aquarius, Varsity, and Stanford those were the theaters here in the early 1980s.

Commissioner Lippert: Not to mention the one that used to be at El Maghrib, Moroccan restaurant.

Commissioner Holman: That's right. That may have been the Biographic I am not sure. At any rate as to item number one I have been known to say in the past zone for what you want so I appreciate Curtis's comment about not having a percentage but just make it a ground floor requirement. Other Commissioners have commented to that effect too and I would support that. I think to answer Commissioner Fineberg if I might I think would of course eliminate the need for findings.

Allowing ground floor in the CD-C district outside the GF regardless of previous use I think that is a possibility in combination with number three. Number three from my perspective there are some areas where again akin to some of Commissioner Lippert's comments, I think there are some areas where we ought to expand the GF and I think there are probably a couple of areas where we ought to remove it. Alma has been mentioned as a location to remove it and I think that is probably very likely.

Differentiating between retail use and restaurant use, as Curtis knows I have been concerned for a long time about how much restaurant use we have Downtown and how it displaces other uses long, long, long term. Because of the capital investment once a restaurant goes in it doesn't convert back to other retail for many, many years. They also have large parking impacts, not the highest retail sales return. There are a lot of good things about them but they also in too large a proliferation they have some pretty significant negative impacts as well.

Commissioner Lippert did however mention something else I had in my notes, which was putting limits on financial institutions.

I was interested in the business outreach because as I read the comments I didn't see any comments that looked like they came from retailers. They looked like they came from property owners, and maybe larger property owners. So I would be curious to know what the PAD had to say and what individual business owners, if there was outreach to them, I would be interested in knowing what they have to say going forward. Some of the things that I think we could do to help some of these owners and businesses is we have needed I think for a long time to do something to improve the process. I hear so many complaints of people who don't want to go public because they don't want to literally, valid or not valid, basis or no basis, they don't want to go public with their complaints of getting permits to open a new business because they are worried that if they want to expand or do any other revisions to their businesses or expand that this would be held against them. Businesses just go through arduous process, at least as it is described to me, to get permits. That may seem a little disparate from this but it really isn't from my way of seeing this because I think if we are going to add some restrictions I think we ought to also look at what we can do to make life easier to after all attract more retail business which is what this is all about anyway, attracting and retaining. So that is one.

Just a couple of other comments about this, again in these conversations with these businesses what else can be done to support the businesses. I know recently there has been an allowance, rather than businesses just doing it I think there has been a trial allowance maybe it is to allow sandwich boards. That is my understanding anyway. So perhaps there are other things like that

that are no cost but that really help promote the businesses. If they have to present something then it can be done in a well-designed fashion rather than things just popping up.

The other thing is permitting for events. I have also heard just kind of torturous processes that people have to go through for that. The other thing I would be interested in looking at is those of us up here and sitting at the table down there are well familiar with the advantages to communities of local independent businesses. So perhaps there is something we can do to promote or incentivize the local independent businesses. They tend to stay longer, put more back into the community, more likely to stay because of their investment in the community, and they are more likely to stay in ups and downs in an economy.

While we are doing this if it is not going to delay things there have been issues that have come up in the past having to do with hours of operation. One particular case on Ramona between University and Hamilton for instance that I can recall they satisfy the literal definition of retail but their hours of operation were very, very limited and then by appointment. So it really caused a break in that retail synergy that we have long talked about.

The other thing again, if this isn't going too far and doesn't cause delays, is window coverings and type of glass because that is another issue that has come up over time. Transparency of the window materials is important if it is going to be retail and again keep people going from shop to shop.

It is important to have office. You do need a mix but we have two, three, four story buildings and offices can be located other than on the ground floor.

A question about PCs. Is it possible to initiate changes to PCs that might not have ground floor retail? Again, not saying that it would have to change immediately but such that if the use ever changed that it would have to convert to retail. We do have some PCs in this area.

Mr. Larkin: I think that would probably be possible. You can rezone it so that if it redeveloped it would have to redevelop as ground floor retail.

Commissioner Holman: Redevelop is one thing. I am not talking about redevelopment I am talking about a change of use.

Mr. Larkin: Or otherwise you could amortize the zoning and require them to – well, without a specific example it is difficult. But you could amortize it and make sure they get full use out it and after a period of years they would be required to change the use. I don't think you can do it, pass the zoning ordinance to say tomorrow now you are ground floor retail.

Commissioner Holman: That was not what I was after.

Mr. Larkin: Or tomorrow if they change tenants. You would have to amortize that use.

Commissioner Holman: Okay, Staff if you could come back with some information about that maybe perhaps which locations that might apply to.

The other thing again, I almost hate to mention this but I will – I won't. I think I will stop there. It is just one other thing which is signage. I think there is something that in hard economic times we tend to look at how we can cut back on expenditures and attract new dollars or generate new dollars and sometimes I think we get in kind of a gather the wagons around and kind of restrict our thinking. I think there are some opportunities that might exist where the City could spend perhaps a little bit of money to help make the retail environment more attractive. Clean sidewalks are one thing I would absolutely mention. Doing something about some of those things are an expenditure of funds that I think would be helpful to attract a long-term financial benefit to everybody involved. So I will stop there. Thank you.

Vice-Chair Tuma: Okay. So before I go through the four items one of the things that is going to be extremely important when this comes back is a fair level of detail on the outreach to the business community. I would offer by way of suggestion things like – well first of all, not just going to the usual suspects but rather making sure that we are talking to some of the smaller building owners, we are talking to the Chamber of Commerce, we are talking to the Downtown Business Association, a real spectrum, and offering a variety of opportunities or avenues for input from those folks. Not just hey let us know, but holding some open forums for discussion and things like that. So what is going to be real important is sort of the level of outreach and the feedback from that. Everybody who is involved in this and who would be impacted by this because I think that collective wisdom is I think very, very important to making sure we are making the right decisions here. I think we all have the same goals in mind but these are people that this is what they do every day. So I think we need to make sure we get that feedback.

That being said, on items one through four I am supportive of looking at all of those. I think it is all-important. Those are all important discussions to have. On item one I am not necessary open or closed to it being zero as opposed to having some threshold. I think that is one of the key issues for me in terms of input from the community. I want to make sure we don't have some unintended consequence of doing that.

With respect to the other three, I think having flexibility in the CD-C(P) District makes a lot of sense. I think we definitely should reexamine the boundaries. I am supportive of differentiating between retail use and restaurant use.

I did have a question. On the map there are a series of, I think there are five or six buildings on University Avenue that are white. In other words they don't appear to be part of this district. Is there some reason? Should those be reexamined? Maybe the existing uses are not necessarily – but should that be looked at is the question for Staff.

Ms. Cutler: Those locations that are not colored in by the orange or the yellow but are kind of within that area, most of those are Planned Community, PC, Districts so they were developed with individual zoning regulations, and therefore are not covered by these zoning designations. Or they are Public Facilities. So they are plazas and Downtown parking lots, etc.

Vice-Chair Tuma: Okay. So if it is a parking lot and if at some point that parking lot was converted to a building in that process would we look at whether it should be included? Is that how that would work as a matter of course?

Mr. Williams: Well, they are generally right now public parking lots. So they are PF zoning. So to be developed as private developments they would require a zoning change and in that zoning change if it were to a PC you could consider the specific use otherwise it would be probably to a CD-C or GF zoning that would require, especially if it is on University Avenue, it would be GF.

Vice-Chair Tuma: Okay. One of the other things that I think is worth looking at or exploring in this process is if we do go down a route of continuing to have a trigger, I don't know whether we actually would put it in the code or not, but somehow an opportunity to reexamine this in three to five years or some sort of timeframe like that. Where if the economy significantly changes, not if someone just thinks about it, but we actually have a trigger that says we will look at this again in some period of time to make sure that it is doing what we want it to do. So again not to be left to the memories of those involved but rather actually make it part of the ordinance that in some relevant amount of time we would look at this again. I think that is worth discussing as to whether that would be in there or not.

It looks like we have a few more comments. Let's go through the rest of the comments. I think Commissioner Fineberg was first.

Commissioner Fineberg: On the fourth point, and I appreciate this extra round of comments because sometimes other Commissioner's comments spur additional thoughts. On the fourth point would it be worthwhile approaching the idea of differentiating restaurant use by looking at it in terms of a regulation of single purpose uses? So that when lenders for instance loan money to businesses for tenant improvements they have a different set of criteria when the tenant improvement is a single purpose use, meaning a restaurant. That may be a way to approach how to regulate rather than as a class of businesses. Banks might fall under that too if they are a kind of a bank that builds a vault. The cash vault tends to be very single purpose use. You are either going to be cash or jewelry or it is going to be a really cool conference room with thick walls.

The idea of regulating banks made me think about what is a bank? It used to be we could all define what a bank was and it was a place that people went in with cash, there were teller windows, and now we have things that are called banks that are really offices where you go in and get mortgage paperwork, or offices where you meet with an investment broker and you are trading securities over the internet. They are really office uses that are owned by the institution that is legally registered as a bank. So is there a way to look at the actual use in the space rather than what is the form of ownership? The might trigger a way to reduce the amount of office space that is owned by banks that are not behaving like a bank. So kind of looking at what the purpose of the business is rather than the form of ownership, and then what the build out is. I don't know whether you would control that through the regulations in zoning or at the place where you issue the building permit for the single purpose uses. I will leave that to you to explore. Thanks.

Vice-Chair Tuma: Commissioner Lippert.

Commissioner Lippert: Just a couple more comments. We have also lost a number of real important services. The Downtown really doesn't have a viable copy shop. I know that there is one. I use it when I have to but we don't have a Kinko's. I have to drive to Menlo Park. I have to drive to California Avenue for Kinko's. We used to have three or four copy shops in the

Downtown area. We used to have a cobbler in the Downtown area. So we have lost a lot of those, they are not really retail they are personal services. So that would be something that I would be interested in seeing that we try to retain or preserve.

Then with regard to theaters I used to go to Century 16 but now I go to Redwood City because I can take the train up to Redwood City and then I can walk around, and I can eat dinner, and then I can go to a movie in Redwood City. If I decide to drive because there are a lot of us we get free parking. The preservation of our theaters, they are really puny, but they are important art house theaters. In the preservation of theaters, I hate to say this, but if there is some way to have some sort of a TDR program where rather than seeing them get converted into bookstores or some other retail use they were preserved and even added onto and get bonus floor area, that would be something I think would be a positive thing.

Vice-Chair Tuma: Commissioner Keller.

Commissioner Keller: Thank you. A couple of comments. I am in support of the idea of mandatory ground floor without exception. The way to handle exceptions could be by rezoning it to non-ground floor. We have the ability to do that so that might be the best way of doing that process if you will.

With respect to a trigger for CD-C for number two perhaps there might be findings in terms of dealing with that so that you have a little bit more discretion in terms of that and also give some more direction in that issue.

We might think in terms of density for particular uses like restaurants and such. I think that there is a difference between a bank that behaves like a bank, although some people may have some criticism, the Wells Fargo Bank on Hamilton and Waverley behaves like a bank. People walk in there, they walk out, they see tellers and such. The Union Bank on Waverley and University behaves like a bank. The Wells Fargo on University and Bryant does not behave like a bank it is really an office. It should be treated as an office and we should make that distinction. I think the Fidelity on Ramona and University doesn't really behave like a bank either. First of all it is a brokerage house. So that should be more considered office. I don't see people have much of an issue going to the second floor. So I would be in favor of amortizing those uses out to encourage ground floor retail in both of those locations. I am not nearly as concerned with the E*Trade that is on University Avenue between High and Alma because that is not necessarily that viable a location for retail. It is sort of on the fringe.

I am wondering with the future transitions of what is going on with high-speed rail whether or not there is a train station there for high-speed rail, what transitions are happening there. I think that may make major transitions to what happens on Alma Street. So I would be leery of making major changes to the zoning on Alma Street away from retail depending on what happens there. If for example some of the proposal for under-grounding high-speed rail involve, even if we don't have a station, involve more intensity of uses that may make Alma Street more viable. So I want us to consider that more carefully.

I am in support of Commissioner Lippert's suggestion of theater TDR.

Vice-Chair Tuma: Okay. Commissioner Holman.

Commissioner Holman: I have just a couple of things. The parking lots, I think they are all public parking lots but the question is could we go ahead and extend for instance the GF overlay on them even though they are probably zoned PF. Could we have a PF FG? The reason is because I guess I have been around long enough that people come up with very clever ways to get around requirements. I think if we had a GF overlay the intention would be very, very clear as to what the purpose is should they ever be rezoned. So if Staff could come back with something about that.

I am not sure of the best way to preserve the theaters is TDRs but I think other communities do look at ways to preserve their theaters. So I am also interested in that and thank Commissioner Lippert for bringing that up.

Then in the near distant future we are also going to be looking at basements, which would include the Downtown area in basements. Do you want us to keep those issues separate or combine? Keep them separate? We are talking about ground floor here. So keep the issues separate I would presume.

Mr. Williams: I would think so, yes.

Commissioner Holman: Okay. That's it. Thank you.

Vice-Chair Tuma: Okay. I am going to take a stab instead of doing everything by straw poll I am going to take a stab at summarizing where I think the Commissioners are on various items. If I get it wrong then tell me I get it wrong. I think we can get the bulk of this out because there seems to be quite a bit of consensus.

So here is what I heard. On items one through three the unanimous consensus of the Commission was that all three of those items should be investigated and potentially part of an ordinance that comes back. On item four what I heard was with the exception of Commissioner Lippert who is not in favor of differentiating the others were. I also heard that the Commission would like Staff to look at whether there should be other categories of businesses to limit including banks, and that seemed to be unanimous across the Commission. Then the other thing that I heard was that there should be an examination of theater preservation efforts, whether that is TDR or otherwise. I hadn't commented on that and I would be in favor of it. The only other Commissioner I think who had not commented on it would be Commissioner Fineberg who is indicating to me she would also be supportive. Did I get that part right so far, Commissioners? Commissioner Holman.

Commissioner Holman: I am not sure if the comment was specifically intended to be banks or financial institutions, because there is a difference.

Vice-Chair Tuma: Financial institutions, right, good point. I think the consensus was other categories including but not limited to financial institutions. So that being said what I heard beyond that were a host of other ideas, which I saw Staff diligently taking notes on. If there are any other suggestions that Commissioners made that they would like us to straw poll on I am happy to do that or if there is any other issues that Staff would like us to straw poll on I am happy to do that. Otherwise, you could simply take the comments that have been made on board

as things to look at. Commissioners, any need to straw poll on specific items? Commissioner Keller.

Commissioner Keller: I think it might be worthwhile straw polling on the idea of mandatory ground floor versus a threshold trigger.

Vice-Chair Tuma: Okay. Don't want to run afoul of any procedures here but I assume that we do this simply by a show of hands and then I read that into the record.

Mr. Larkin: I think that is fine as long as you are recognizing that you are not committing yourselves to anything. Staff will come back with a recommendation and Commissioners are free to change their minds because it is a straw poll and not a vote.

Vice-Chair Tuma: Okay. So I guess the Commissioners who would favor essentially a prohibition on anything other than ground floor retail.

Mr. Larkin: It is really in favor of exploring the concept because there still needs to be outreach.

Vice-Chair Tuma: Thanks for that clarification. So by a show of hands those that would support basically a prohibition on anything other than ground floor retail.

Mr. Williams: So eliminating the threshold.

Vice-Chair Tuma: Better said, eliminating the threshold. Commissioner Lippert.

Commissioner Lippert: Just a clarification on that. That would also include personal services as well, correct?

Mr. Williams: Personal services are allowed like retail is allowed so that would be allowed still. So this is essentially prohibiting the threshold for office.

Vice-Chair Tuma: Okay. Commissioner Keller.

Commissioner Keller: I think the way to think about it is essentially eliminating the exception process independent of vacancy rate.

Vice-Chair Tuma: Okay. Commissioner Fineberg.

Commissioner Fineberg: This is just that we would be in favor of exploring this process.

Vice-Chair Tuma: They are going to explore it either way. I think the direction was they are going to explore the various different options but whether there is more of a preference towards essentially eliminating the threshold. So those who would be in favor of that conceptually raise their hands. That is Commissioners Lippert, Fineberg, Holman – that would be four Commissioners in favor of that and one opposed.

Is there anything else that we should straw poll on before we close this item? Commissioner Holman.

Commissioner Holman: Just a clarification. Tonight's Chair did a nice job of encapsulating those things that there were numerous comments on. Some of us make other comments about other things that people didn't comment on. Will Staff come back with responses and investigation of those additional comments, like for instance local independent business incentive or promotion?

Mr. Williams: We will definitely look at all of those. I am not saying we will have any – some of them I think are ones that probably are outside the scope of being able to do something quickly on and we will let you know that. Others we will probably be able to handle. So we will look at all of them and let you know why we did or did not address them.

Commissioner Holman: Appreciate that thank you.

Vice-Chair Tuma: Okay. Commissioner Keller, one last comment before we go on?

Commissioner Keller: Yes. Two other issues. I am assuming we don't need a straw poll for the issue of whether there should be findings for item two that Staff raised. You will just consider that and that is not the kind of thing we need to go into.

I am wondering whether we need to straw poll or not the issue of the potential for amortization out from uses that are not retail essentially on University Avenue or whether that is something that we shouldn't weigh in on at this point.

Mr. Larkin: That is outside the scope of what we are doing tonight. So that requires separate notice so you should not be straw polling on that.

Commissioner Keller: Okay, thank you.

Vice-Chair Tuma: Okay. With that we will close item three and move onto item four.

Item four is put out by Staff as an Uncodified Ordinance for time extensions affecting the expiration and the allowed extensions of various Planning entitlements as permitted through Palo Alto Municipal Code, Title 18, Zoning Code. Staff do you have a presentation?

4. Review and Recommendation of an Uncodified Ordinance relating to Time Extensions for active permits previously approved pursuant to Palo Alto Municipal Code, Title 18, Zoning Code. Environmental Assessment: Exempt from the requirements of the California Environmental Quality Act (CEQA) requirements pursuant to Title 14 of California Code of Regulations, Section 15061(b)(3).

Ms. French: Yes. Due to the current and projected economic conditions Staff has begun to get an increasing number of requests for extensions of planning entitlements, along with requests for extensions of Building Permit Plan Checks. Developers are having a difficult time retaining building occupants that they initially had as part of the deal and obtaining financing to pay for both the construction and the development impact fees that are due at the time of Building Permit issuance.

The entitlement extensions of one year can be granted now by a letter from the Director for all except for Sight and Design Reviews as long as we receive the request before the expiration before the entitlement. To date these extensions have not involved adding new conditions to the extended projects. The uncodified ordinance would extend Planning entitlements approved pursuant to Title 18. It would provide more certainty in uncertain times for previously approved projects and would streamline the extension process.

In exchange for extensions Staff proposes that the City would require future construction to meet our mandatory Green Building requirements even if those requirements were not in place at the time of the initial approvals. The proposed two year automatic extension of active Planning entitlements and for those approved prior to July 2010 is very similar to the state assembly bill that passed just last week, AB 333. It is a new statutory or automatic two-year extension of all unexpired subdivision maps. This extension adds to the extensions that were already added for subdivision maps back in July of last year, SB 1185.

Chair Tuma had asked Staff to identify the potential effects on resources both positive and negative. First of all I want to make clear it is not going to extend construction periods as they are currently defined now in our Building Department. It is just about getting projects to the point where they can initiate that construction. It would not freeze the amount of fees to be paid for projects. So Plan Check fees, Green Building fees, development impact fees would all be paid at the rate in effect at the time of the Building Permit submittal and issuance.

Then applicants for Building Permits currently in Plan Check would still have to pay to extend the Plan Check if the Plan Check time is nearing expiration. This ordinance would not affect that. Applicants for Building Permits that have been issued but yet received their inspection with the six-month interval would still have to pay to extend the permit for inspection purposes. If the Building Permit were to laps and the Planning entitlement had been automatically extended per this ordinance the applicant could then reapply for the Building Permit and pay the fees again in effect at that time.

This ordinance could reduce the amount of permit fees and applications received by the City during the coming years, not such a good thing. But since the applicant's would not need to reapply for the same projects that may have otherwise expired. The applicant's would also not have to pay an attorney to prepare a Development Agreement to apply for Council approval of an ordinance associated with such a development permit. However, Staff could then focus on pending entitlement projects, preliminary reviews, and other work on our plate such as Commission and Council assigned special projects if we just simply extended them.

Commissioner Keller emailed questions to Staff today and answers are at places at the back of your at places packet there. Per his request, the list of addresses of approved projects currently needing Building Permits and projects that are now in discretionary planning processes have been annotated to show the zone district for each project. Hopefully they came out okay in the copying. If you have questions I can go through that.

Staff is interested to hear Commission input on the length of time for the automatic extension and the Director extension. The Commission may wish to discuss the amount of time proposed for each type of extension based upon the type of entitlement. So it is quite late. I think we still have a few possibly supports, possibly others who want to discuss this. Thank you.

Vice-Chair Tuma: Thank you. At this point I have three members of the public. Thank you for sticking with us to this hour. So we are going to hear from the public. The first speaker will be Bruce Barry followed by Bob Moss. You will have three minutes each.

Mr. Bruce Barry, Palo Alto: Good evening and thank you for your time. I am with Barry Real Estate. I am not going to tell you anything that you already don't know. Sitting out there listening to you and I am very impressed with your knowledge of what is going on in the real estate environment and the economy in general.

The project that I am going to talk about we started five years when the economy was much better. Things have dramatically changed and we are at a point now where our project is approved and we have until January 11 to pull the Building Permit. At this point our tenant has backed out given the current situation. I work every day trying to talk to retail tenants, talking to office tenants trying to secure tenants, and there is no interest. Every retail tenant I have talked to their plans are on hold indefinitely, pretty much the same with the office tenants. I really believe it is going to be not months but it could take years for things to come back to where they were.

I am just here to ask that you please support item four and get it passed. There are a lot of great projects out there that should be built that are going to be a great improvement to the city and we just need some time to ride this out to get them done. It is just the lending environment, dealing with the banks, the restrictions that they have put on us. It is almost impossible to get funding or even get a tenant to get your projects approved. So that is where I am at.

Roxy Rapp was going to be here tonight but unfortunately he is flying back from Utah. So he wanted me to convey the message. He has a big project he is working on too. So thank you and I appreciate your time. I am very impressed with your knowledge. You are doing a great job. Thank you.

Vice-Chair Tuma: Thanks, thanks for sticking with us. Bob Moss followed by Herb Borock.

Mr. Robert Moss, Palo Alto: Thank you Vice-Chair Tuma and Commissioners. I think the basic concept of we have an economic problem we should do something about it is correct but the timing is wrong. The recession started 19 months ago and is showing signs of coming out of it. My prediction is it will actually be back in a growth mode probably by November or December, and by this time next year I wouldn't be surprised if the growth is over three percent. So we have gone through this and we are on our way out.

Of the 20 projects that are listed on Attachment C that are pending and may have to come in for extensions one of them already has an extension to 2014, three of them Building Permits should be issued within the next month. So there are 16 that are at issue and a number of them are good until 2011. So I think it comes to something like six or eight that really might be what we would call at risk.

One of the things that bothers me about this extension is it takes all the pressure off to have somebody really build something. There have been a number of developments in Palo Alto over the years where somebody has come in and gotten an approval and then for various reasons stopped work. You have this site that just sits there unused, vacant, and getting increasingly

ugly. There are two housing projects in Barron Park a few blocks from me that have been sitting for months with nobody doing any work. There is one right next to Briones School that has been underway for almost three years, and that is kind of bad.

So my suggestion is a compromise. Don't give the automatic two-year extension. Allow a second one-year Director's extension so that you can get three years total. If we still find at the end of another year that we have a down economy, we have a problem, then we could have yet another Director's extension. When the Director does the extension he is talking about going with Green Building he should also make sure that if there are changes in the code, Zoning Ordinance, the Comprehensive Plan that the extension also imposes whatever those changes are so that we have something that is modern and consistent with current practice rather than something that was approved four or five years ago and you wouldn't want done exactly the same way today. So I think leaving it to the Director and allowing a one-year additional extension is a good compromise.

What really bothers me is the idea of something sitting there undeveloped for many, many years. That would be unpleasant.

Vice-Chair Tuma: Thank you. Our last speaker of the evening, Herb Borock.

Mr. Herb Borock, Palo Alto: Thank you Vice-Chair Tuma and Commissioners. I guess the simplest comment I can make is just say no. We have a social contract here for decades that there are limits on approvals. In good times when developers were making very high returns or in some cases in relation to the previous item they were putting offices on the ground floor that was prohibited until they got caught. They didn't take that extra money and give it to charity or give to the community that was impacted by the developments.

The reasons Staff has given, Staff workload for example I don't believe it. The real reason they are concerned is the community standards change, different people are elected to the City Council and if projects laps, as they do under the current code, the same project might not be approved based on who gets elected. I just think you should say no.

One comment I would like to make is there are three ways to initiate changes to the zoning code. One of them is the current agenda item where Staff initiates it and places it on your agenda. The other two are either the City Council or this Commission initiating the zoning change. That is what the previous agenda item was supposed to be. The Commission initiating a zoning change but you did not do that. You did not come to a collective concurrence to direct Staff as to what should be in that ordinance.

I couldn't make that comment on the last agenda item because I didn't hear that advice from Staff until after the public comment has been closed but I think that was a violation of the zoning code. It is not only the first time I have heard the kind of advice you got on the previous agenda item compared to other attorney's who have been here, but I think it is the first time I have heard it during Gary Baum's tenure. Thank you.

Vice-Chair Tuma: Thank you. Back to Commissioners for questions or comments. Right now I have Commissioner Keller, followed by Holman, followed by Fineberg.

Commissioner Keller: First I think this is very interesting. I am in sympathy with the comments of Mr. Moss from the public. I heard several different reports indicating that the recession is likely to end sometime in the fourth quarter of this calendar year, and then see some upturn. Nonetheless I do think that it is warranted to be able to provide some degree of extension. Although I had first thought with respect to my question four about one year automatic extension and two one year discretionary extensions I am now leaning towards, especially in response to the comments that discretionary extensions actually are not a lot of work, I would suggest that we have up to two one year discretionary extensions. That if this turns out to not be an upturn within the next two years that we can revisit this further and do that.

In addition, that these discretionary extensions take into account not only Green Building but also the potential for code and Comprehensive Plan amendment changes, and that we take those into account as well. I appreciate those other suggestions from Mr. Moss.

I had furthermore suggested this not apply to Site and Design Review. That the process of Development Agreements certainly exists in that and that we avail ourselves of Development Agreements in that regard, as was mentioned in the response to my question number two. Where it says that currently a Director may extend Planned Communities one year; beyond that a Development Agreement would be needed for an extension. Development Agreements executed prior to expiration are currently the only method available to extend Site and Design Review approvals. So it looks like the process of Development Agreements already exists for a Planned Community and already exists for Site and Design Review, and it seems to me that that process should be followed. So in particular PCs involve Site and Design Review so I would want this not to apply to Site and Design Review. If the Chair will allow me I will make that motion but if the Chair prefers I can defer that.

Vice-Chair Tuma: I think it may be helpful just to hear comments from others as well and then we will come back to you for a motion.

Commissioner Keller: Sure.

Mr. Williams: Chair, can I make one clarification?

Vice-Chair Tuma: Absolutely.

Mr. Williams: The reference is to Site and Design Reviews and you said that PCs require Site and Design Review and that is not true. PCs have a process that is similar to Site and Design Review with the exception of Alma Plaza PCs do not have separate Site and Design Review. So you might want to focus more on the PC than a Site and Design Review or both if you feel it necessary to do both. But you can have Site and Design with out a PC. The PC process has embodied within it review by all three bodies which is essentially what Site and Design Review is but it is not called Site and Design Review. So if you just said Site and Design Review that doesn't necessarily attach to all PCs.

Vice-Chair Tuma: Commissioner Keller.

Commissioner Keller: In that case I would want to use the Development Agreement process for both PCs and Site and Design Review. Thank you for that clarification.

Vice-Chair Tuma: Commissioner Holman.

Commissioner Holman: I have a couple of questions. How many properties are really prompting this? If you go down the list there are 2455 El Camino Real, it says the Building Permit is issued. 278 University there is already a one-year extension available. There is an extension available for 695 Arastradero it appears. I am just looking at the ones that expire in 2009. 49 Wells, 653 Homer one year extensions are available for those. 317-323 University no Building Permit so is there a one-year extension available for that one?

Mr. Williams: No, that is the one the speaker was talking about before that expires in early 2010.

Commissioner Holman: Okay. Then the Building Permits are issued for the recently issued ones the 2805 El Camino and 3750 Fabian. They don't have to commence work for another many months. So I guess I am a little bit interested in what is really prompting this. Is it the concern for how long the downturn will last? Why are we looking at this now?

Mr. Williams: Yes, two things. One is that we have had a couple. The main one that really started us thinking about this was Channing House, a Planned Community for Channing House. We just not too long ago wrote them an extension request so they would have to be back in do we have that?

Ms. French: With a Planned Community they have a development schedule. So they have said that they are going to by October 8, 2011 start construction. If they don't start construction on October 8, 2011 they are going to have to come forward with a Development Agreement or if we have done this extension then they don't have to do that. The problem there too is it is OSHPD. They are dealing with a different agency to get through permits, etc.

Mr. Williams: 200 San Antonio you saw as a Development Agreement that is somewhat different than the other requests in that it is such a big project and involves Mountain View and some other unusual things. Then this 317-323 University is there and then what you don't see on these pages are dozens of single family homes and other remodels and such that are in the same situation. They have expiration dates and they are sitting now and some of them are going to come up in the next six months to a year and some of them might be a little longer than that that can have one additional extension. But again, appreciate what Mr. Moss has said but we are seeing a lot of particularly commercial real estate reports coming out saying 2012-2013 for the timeframe for bouncing back in the commercial sector. It ends up being troublesome for Staff to have to process extension requests and deal with that. It is very troublesome to have to develop a Development Agreement. It has to go through Commission and Council, have to have the Attorneys getting involved and that kind of thing, but what is more troubling is the applicant and the uncertainty. I think this is a good example for 317-323 University. I talked to Rick Barry last week about this and they are in a situation right now and there is a lot of lead-time associated with doing these things. So the fact that we could say well, it has to have a permit by early this says 12-27-09 but he has indicated I think January 10 or 11 or something like that, have to pull a permit by then. Well, if they are going to pull a permit by then they need to have probably their working drawings submitted in the next month or so to Building. So they are at a point where they really have to make a serious commitment of money to do that and then move forward.

Even at that they are not sure that they are going to be able to have the financing to make that happen in that timeframe. So it is difficult.

Certainly, if the Commission wanted to go to something that is less than the two years out, something like Commissioner Keller mentioned, and come back in a year and review and see where things are kind of with the economy and see how things are looking and whether to continue this, and maybe this is a report you see after a year and make a determination whether to continue the extensions or not that would be something that certainly would be better than sort of where we are today.

Vice-Chair Tuma: I just want to interject a comment here. I spend a lot of time these days reading about the status of the commercial real estate market and everything that I read says that when you look at the statistics on the status of notice of default and foreclosure proceedings in the commercial real estate market it is lagging the residential market by between six and 12 months. So what I am reading says very strongly that while the residential market seems to be stabilizing in some areas the commercial market is getting ready for what we went through six to 12 months ago in the residential market. So I would concur with the comments of the Interim Director that the commercial market may very well be in for a much bigger shock coming up. So I think the worst of it is not over for the commercial market. So just in terms of the why are we doing this I think there really is a time horizon out here in the future where the commercial market is going to be in a greater sense of disarray if you will. Commissioner Lippert do you want to follow up on that one?

Commissioner Lippert: I just wanted to follow up on that real quick which is that the state of the economy when it comes to commercial is probably far worse because commercial properties generally have to refinance and they are takeout loans every ten to 15 years. So it is not just the construction loans it is also the takeout loans as well. So it is really quite a terrible situation that we could be facing in the near future if we don't take what we have in the way of permits here entitlements and be able to extend them at least out through another year.

Vice-Chair Tuma: Okay, great. Thanks. Now back to Commissioner Holman.

Commissioner Holman: So unless I am really missing something here is the only one that is really in jeopardy currently, we are not talking about the single family homes, but the commercial ones is the 317-323 University?

Ms. French: You are looking at major projects. There are others out there that are not on this list that are Individual Review homes, etc. I don't have a list.

Commissioner Holman: Right, excepting IR projects or single family homes, the commercial ones.

Mr. Williams: There may be a few on these lists of the major projects there are not that many that are imminent. But again in terms of planning, their building plans, their financing, etc. trying to get there it is just our feeling that we don't want to wait until we are six months away from their expiration before we do something.

Commissioner Holman: So how finitely can we say and nay? In other words without getting into a situation of discriminating, it kind of goes to Commissioner Keller's comment perhaps, could we carve out PCs? Could we carve out affordable housing projects? How can we slice and dice.

Mr. Williams: Don might want to add to this but I think you probably can by the type of permit at least. I don't know about affordable housing projects probably but certainly you can do PCs, Sight and Design from architectural review, just standard architectural review or something like that if that is what you would like to do. I don't think that is a problem especially since those are items that go all the way through Commission and Council and that does imply that there is some greater discretion associated with that kind of review.

Commissioner Holman: Could it also be by size of project? The reason I am going there is because times and conditions do change in the real world so that is why I am asking that question. And, a second question is if I understood Amy French's comment and I may not have understood it, the fees that are paid are the fees that are paid at the time of issuance. So if somebody comes along and they don't get their Building Permit for two years then they pay the fees applicable at that time. But if they have already paid the fees – never mind I just answered my own question. So the size of project, could we?

Mr. Larkin: I think you do have a fair amount of latitude. I think the closer you drill down, the more you differentiate, and the closer you drill down to specific types of projects the stronger the rationale has to be. You have to come up with rationale for not extending – if you are going to say all PCs except for PCs over 20 acres, just to use an extreme example, I think that is fine but come up with the reason why it makes sense to distinguish those projects.

Commissioner Holman: Thank you.

Vice-Chair Tuma: Commissioner Fineberg.

Commissioner Fineberg: Could Staff please define proposed uncodified ordinance?

Mr. Williams: Yes. A lot of times when something is intended to be in effect for a temporary period of time we do that or cities us an uncodified process. It doesn't get into the code because it is not going to be in the code very long. So it is basically outside the code and says this is the way you treat these permits in this case. Then in a couple of years it is gone. So nobody is looking in there ten years in advance and says something is in here about this and it is ten years old and outdated. So using the uncodified process is beneficial in that respect. It doesn't have to be we could put it in the code but that is generally the way it is done. I know we had talked to Sunnyvale and they did something like this too and that is the way they did it for their code.

Mr. Larkin: It is the kind of thing that could be done by a resolution. In fact our Charter says that we could do legislative acts by ordinance or resolution. The problem with resolution is that it is not tracked at the same level. An uncodified ordinance will at least get entered into the end of the code where they list all the ordinances that are adopted. So if somebody needs to refer to it you will have an ordinance number and can go pull the ordinance.

Commissioner Fineberg: So what does an uncodified ordinance live in if it is not part of the code? Are there other uncodified ordinances out there that we are all familiar with?

Mr. Larkin: There are uncodified ordinances out there that some of us are familiar with. All of the City Council's actions that are legislative are either done by resolution or ordinance. If it is resolution it gets filed in a draw and people may know where to find it. If it is an ordinance it gets listed in the Table of Ordinances but the official record of those ordinances is the Ordinance that is on file in the City Clerk's Office. So the code is a handy reference but it is the Ordinance itself that is on file in the City Clerk's Office that is the implementing document. This would just be an ordinance in the City Clerk's Office that doesn't get printed in the code.

Commissioner Fineberg: So are all the PC ordinances uncodified ordinances?

Mr. Larkin: That is actually a really good example. PC ordinances are uncodified ordinances.

Commissioner Fineberg: Okay, thank you. Can Staff please clarify the existing conditions, I think I am familiar with them but I just want to make sure, what is the length of time currently allowed for the different types of projects? Then I understand we will be adding the two years or the one-year in this proposal. But what is the baseline that we start from that exists now?

Ms. French: So there are different classifications. We grouped them during the permit streamlining to be called different things. So if you want to look at the table in Attachment B you can see ARB, DEE, CUP, Variance, IR, HIE, NPE those are all good for a year. If they come in before that year is up and ask for an extension we give it to them through a letter, one more year. So the total amount of time is two years before they have to have pulled their Building Permit and started digging in the ground.

Then for Site and Design it is a two-year initial period unless it is associated with a Vesting Tentative Map and there are no extensions by anybody. The Planned Community there is a development schedule that is set forth and adopted by Council, and it could have a five year plan it, it just depends, it is case-by-case. Then that can be extended by an additional year by the Director. So that's it.

Commissioner Fineberg: Thank you. I had missed Attachment B. So that means that more or less there is one year, plus a one year extension, so the current base condition is two years and we would be going to either four or five years. How does and, where in that process, how does demolition permit fit in there? Will we be having lots that get scraped and then sitting empty five years or do they not get to scrape it until there is some condition that has been met? Will we have vacant buildings with no tenants that are getting blighted? What is going to happen?

Ms. French: Technically in our code right now for let's say Architectural Review Board permits or approvals we would not issue the demolition permit until after the architectural review – in the code it says this. We don't issue demolition permits unless there has been an Architectural Review approval. Now we are looking at other policies as far as that goes. In other words, sometimes there are reasons why if there are hazards in the building let's say, they want to demolish it for health and safety reasons so there is an exception to that. The best situation would be to be issuing the Building Permit and that would include the demolition permit and that would come as a package that would include the construction and demolition debris diversion

requirements and paperwork, etc. So that is our ideal and that is what we try to work towards with our applicants is to have it all happen in the same issuance.

Mr. Williams: We have recently affirmed that with the Building Official that for all types of permits that in almost all cases the demolition would not occur prior to a Building Permit being issued with the exception of if somebody does come because there is some unusual circumstance and there is some hazard or nuisance created by a building remaining on a site that there would be the ability for the Building Official and Planning Director to determine that it could be demolished before hand. Up until like six months ago or so I know certainly on single family homes you didn't even have to have an approval of a project for that site before you could demolish. Now we have policy that not only do you have to have approved replacement but you also have to do it simultaneous with the Building Permit.

Commissioner Fineberg: Okay, so it sounds like the safety mechanisms have been put in place that we won't have the demolitions and then empty lots.

I don't know if you could answer this tonight but I also have some questions about what the impact in retail tenants would be. In light of our last conversation if we have projects that have ground floor retail or office on second floor and the project is likely to undergo a renovation there is a significant amount of uncertainty introduced for those tenants if they don't know if they are staying one year, two years, or five years. I can imagine that that only degrades their ability to have certainty and to want to have any kind of tenant improvements to want to remain in that space with that uncertainty. So I don't know that it is necessarily a good thing for the tenants. Also if you have spaces that are not the most desirable buildings, buildings that an owner or developer might want to tear down and redevelop, those undesirable spaces add to our less expensive office stock, less expensive housing stock, less expensive retail stock. We have seen this in other areas when we redevelop we redevelop with typically higher density, with better quality space which goes at higher rental rates or higher sales per square foot, the value of the property, and the improvements are increased. So it drives up rents. It drives up land values. It drives up property costs. One way to counteract that would be to not enact this ordinance. So by not enacting this ordinance it would make rents more affordable. It would make single family homes more affordable because it keeps that older, lower quality stock. It is kind of counterintuitive to wanting to see everything improved. I would be curious to see more of an analysis on that and whether that would increase our ability for local businesses to remain in existing retail spaces. I am not sure this proposed uncodified ordinance would benefit local business operators not necessarily owners. It looks like you have some feedback.

Mr. Williams: I do. I understand what you are saying but my take would be the opposite of that. I don't think that your concern about redevelopment is I think outside the discussion here. I think these properties are going to redevelop it is just a matter of whether when that occurs. Then as far as the rents go, I am thinking of the situation with the tenants in the retail, I think having some extension and some known extension there provides an opportunity for the property owner to assure the retail tenant that they have more time there and to work something out with them. I think if you look at the 278 University, the Roxy Rapp building as an example, at first they were going to go ahead and Noah's and Starbuck's had moved out. He as been able to find a couple of tenants as interim tenants in those spaces. I know that Kan Zeman is the other piece of that and it has been looking and looking because they thought that they were going to be gone. When it looked like he wasn't going to be able to develop right away they managed to strike a

deal. If they knew they had these extensions I think they could talk about a longer term, more solid deal to keep people in spaces. If they don't then they are almost forced to say well the lease is going to be up then and I don't know if I am going to be able to keep you there or not. I might be forced to move ahead with a building I don't really want to go ahead with and there is a lot of risk to do that. So I would see from the retail side at least that this would provide a little more certainty in that situation, more opportunity to retain those retail tenants. On the home side I think it is just a matter of timing and it might mean that somebody has to come back in and resubmit but they are probably still going to ultimately do the home at some point. Just my opinion.

Commissioner Fineberg: Okay. Thanks I appreciate that. I guess what I am seeing is that if a developer knows before they start a project that they need to have tenants lined up, they need to have financing lined up, they need to be able to do this in a finite period of time they might be less likely to give their anchor tenants notice of five years. They might be more inclined to retain tenants they have and unless they know they have a viable project they are not going to take the gamble that hey I can start this project and I have five years to figure it out, and it increases the amount of uncertainty, and it increases the risk they will take because they know they have more time to sort of sort things out. I can see how that could go in several directions.

I would like to echo Commissioner Holman's comments of if we were to pursue this to somehow differentiate how the ordinance might apply to single family homes, versus PC, versus commercial properties, and I will leave it to Staff to figure out how to slice and dice that. But I would be more inclined to favor the ordinance for certain types of developments and not for others.

I also would want to see more thought and maybe Staff comment on what the impact of this ordinance would be given that we are on the cusp of a Comprehensive Plan Amendment. Assuming we keep our 2012 date for having the Amendment in place some of the extensions that we might be granting within let's say a year would carry these projects pas the 2012 date versus if the current entitlements expire when they would come back would be governed under new Comprehensive Plan guidelines. So at a time when our Comprehensive Plan is sun setting is it wise to continue entitlements into a new Comprehensive Plan era. I don't what the full impacts of that are so I would want to see more discussion of that. Thank you.

Vice-Chair Tuma: Commissioner Lippert.

Commissioner Lippert: I think this is a really fine idea considering the economic times. One thing that this does I think is particularly important. The discretionary review process is just that. It is an entitlement on a project, on a piece of property that is not a right that is just given away it is something that needs to be reviewed and done following a set of rules, and there is a body that reviews this. What I want to do with this is keep the discretionary review process from becoming a subjective review process. What I mean by that is that because a project might be stalled by a year or so bodies turnover. On the Planning Commission we have already seen we have lost two, perhaps three people here. The City Council again is going to be turning over and we might lose three people there, four perhaps. So what happens is that when you get into these entitlements that have been granted a body like the Planning Commission or the City Council if they have to make reapplication for this it is a whole other set of eyes that are seeing this. In addition to that the rules are changing. So you compound all of that and it is like a vehicle stuck

in mud. It can't get any traction. It can't get going. The gasoline is the financing. If they are out of gas, they are stuck in the mud, they finally get the gas to get going again, but the process bogs it down. When that begins to happen we begin to lose opportunities in this town. What I mean by that is we see things like Tom Wing leave Stanford Shopping Center and goes to Menlo Park. So I don't want what is our discretionary review process to suddenly become a subjective review process.

The other point that I want to make here that I think is particularly important is that when it comes to Planning entitlements the date you make application is the date the rules that you have to follow are set. The rules you follow are as of the date of application. So if the one-year period were to expire a whole other set of rules might come into play and then they would have to redesign the building or the project based on the new rules. With Building it is a little bit different. Again it is the day that you submit but you could be in Plan Check for up to a year and resubmit your revisions and you are still in there. What I am afraid will happen with this is that the rules would change whereas in the Building process when it comes to – it is much more ministerial, this is discretionary. All that the Building Code is is it is ministerial. You just have to meet each of the objectives in the Building Code, whereas this is discretionary. So it is a far more difficult threshold to meet. What I am afraid of is that we are just going to have developers that are going to throw up their hands and say hey, I am not going to build this project now. Once that happens we are stuck in a time warp where we are not moving forward.

Vice-Chair Tuma: Okay. I have just a couple of quick comments and questions and then we are going to go to Commissioner Keller because I believe he is prepared to make a motion.

A question of Staff. What is the standard of approval on discretionary extensions?

Mr. Williams: Generally I don't think there is a specific criteria for it. It just allows the Director to make that extension upon written request. So unless there is some very obvious changed circumstance that would cause us to highlight it that we wouldn't make an extension, we generally would extend the approval.

Ms. French: They just have to get it in before their entitlement expires. That is the big rule.

Vice-Chair Tuma: So is this another one of those situations like the last one which is basically in order to get the extension, they get it in it is almost mandatory that we give it to them?

Mr. Larkin: The one area I think Curtis alluded to is if in the interim the development standards have changed and if Council has rezoned the property or the development standards have changed then that would be a trigger for the Director to say no your approval is not valid anymore because the circumstances have changed.

Vice-Chair Tuma: How would that work with a PC?

Mr. Larkin: Well, with a PC it wouldn't be confusing the PC would have to have been rezoned by Council and the applicant would have to have been involved in the process. So there wouldn't be a need for a trigger.

Vice-Chair Tuma: So a PC would essentially automatically get the extension by applying for it. Is that right?

Ms. French: Well it is under the ordinance for PCs. Yes, it is a year. We haven't been saying such as you need to comply with the Green Building requirements. That is one of the reasons we put that in the proposed ordinance because we have not been extending things and saying and now you have to meet the Green Building, which is a good idea.

Mr. Larkin: Just to clarify and it is getting a little bit late so we are getting a little groggy. I think if Council made some development change that applied across the board even to PCs and that came up for review and extension the Director could flag that and say no you have to go, such as Green Building Ordinance. One of the things that we need to be careful of is that, and we are still looking at this AB 333, which was adopted by the legislature last week, but there is some language in there that talks about what new conditions can be imposed on projects that have Tentative Maps.

Vice-Chair Tuma: Okay. So conceptually all this makes sense to me. I think from a practical perspective dealing with the delays that the significant downturn in the economy are costing and not putting a lot of extra burden back on Staff and to some extent the developers to have to go back through this process. So conceptually I am okay with it. Also, it basically has a one-year sunset in it. Well obviously it is going to be less than a year. So the time horizon is not huge. I would not be surprised if we are back here a year from now talking about doing this again, just for the record.

What I do have a little bit of trouble with are a couple of things. One is the durations. The five years in total is a bit troublesome to me. I would rather see it broken up into smaller chunks and maybe perhaps something along the lines of what Commissioner Keller was talking about.

The other areas are along the lines of what Commissioner Keller was talking about both with respect to PCs and Site and Design. I would be in favor of carving those out in a manner that Commissioner Keller had talked about. I am not sure that we want to get much more fine than that in terms of carving things out. I am open to hearing a little bit more about that but at this point those would be the two things I would be supportive of. So Commissioner Keller.

Commissioner Keller: Thank you. Let me make a comment or two first. First I have a quick question of Staff as a follow up to the Chair's question. That is with respect to does it make sense to think in terms of findings or sort of discretionary guidelines that might exist for why you would extend it or would not extend it, and when you would include Green Building requirements, or when you include code or Comprehensive Plan changes to incorporate those into the requirements? Does it make sense to consider things like that?

Mr. Williams: So what did we say on the Green Building? Just that we may?

Ms. French: I think we were going to require it for automatic extensions.

Mr. Williams: Yes, all additional extensions shall be subject to compliance with Green Building requirements. So that is a sort of mandatory thing. There aren't findings on that. As far as just more criteria for when to do it, it could be that we could say something to the effect that we may

extend it unless it is determined that there are materially different circumstances that now apply in terms of code provisions or something like that if we wanted to do that. I would just as soon just leave it open-ended and just deal with the time periods is more of the way to sort of effectuate how it is done.

I was thinking for the PC and Site and Design thing another thing you might consider so we don't get into this avenue of Development Agreements is you could say in here that for those for the second extension or something like that so that they don't have to go to a Development Agreement that an extension could be granted by the Council after review and recommendation by the Commission or something like that. That way we don't have to go through a whole Development Agreement process but the Commission and Council still get to review whether it is appropriate to have that extension for that type of project. I think that would maybe be a middle ground that would expedite the process but still allow the discretion that you were looking for.

Ms. French: I was going to add to that maybe in the additional extension by the Director you could just consider adding a phrase saying additional conditions may be added to address changed circumstances.

Commissioner Keller: I appreciate that. I think that somebody else may want to make a comment but let me just quickly indicate that sometimes these temporary extensions can actually cause problems. This happened in particular to the former Round Table Pizza that lost its Round Table franchise and became Fandango Pizza in Alma Plaza because in order to keep their franchise they have to have a ten-year lease. The owner of that property refused to give them a ten-year lease and as a result of that they lost their Round Table franchise. In particular that particular development which shall otherwise remain nameless actually caused a great deal of vacancy in order to cause redevelopment and that can be problematic that I am concerned about.

Vice-Chair Tuma: Okay, I think we have a couple more quick comments before we get to the motion. Commissioner Holman and then Commissioner Lippert.

Commissioner Holman: Yes, the way this has been described this evening it sounds like it is just a letter that gets sent to an applicant but it is actually a public notification for an extension is it not? It used to be.

This is one of the difficulties I have with a non-codified ordinance because it makes tracking and public awareness a little bit more troubling. If my memory serves and I am pretty sure that extensions did used to be a public process not that many years ago.

Do we have any way of knowing how many of these projects have, it is akin to Commissioner Fineberg's question earlier, are already demolished and how many IR projects or how many single family home projects it applies to?

Ms. French: I didn't do a big research project on the small projects, the non-major projects.

Commissioner Holman: This goes to changing conditions and changing rules, do we have any idea how many of the projects, commercial or single family, how many involve exceptions?

Ms. French: On the major list that was provided here?

Commissioner Holman: Anything, any of the projects.

Ms. French: These are the only ones that I have data on are the ones in front of you. I can go through them.

Mr. Williams: Let's not. We would have to go through the whole list and look at that. I am sure a few of them do but it would take awhile for us to look at each one and tell you that.

Commissioner Holman: The reason I asked the question is because again it has to do with changing conditions.

Mr. Williams: I understand that. I think the intent here and if the Commission doesn't want to do this let us know that and we will move it to the Council. But the idea is like Mr. Lippert said, there is an entitlement that has been granted and it is for economic reasons that we would move it forward for maybe it is only a year not two years but without respect to trying to get back into arguing the whole merits of the project again, and recognizing that yes there are some exceptions, yes there are some projects that people would not like to see move forward, but if you are looking at getting into that kind of discretionary review process again then there shouldn't be an extension process at all.

Commissioner Holman: So my last question is we have a meeting next week and we have only item on the agenda. I think this is a very important consideration. My sense is it is not going to be a wholesale change if it is initiated. How would Staff feel if we continued this item until next week so that we could further contemplate and ask other questions, especially given the hour?

Mr. Williams: That is the Commission's discretion. We don't have a problem with that if you want to come back next week. We just have the Green Building Study Session on your agenda.

Commissioner Holman: So there is plenty of room. Thank you.

Vice-Chair Tuma: Commissioner Lippert.

Commissioner Lippert: With the late hour I would be inclined to continue it as well. But what I would ask is that you keep the public comment period open.

Commissioner Holman: I would have made that motion but I think Commissioner Keller was already set to make a motion.

Vice-Chair Tuma: So it won't come as a surprise to anybody that I am conceptually fine with putting this over to next week to finish it but I don't want to do a rehash of all the things that we have talked about tonight. It seems like we are very close to a motion. Let me explore an idea here. Would it make sense to get a motion on the table at this point?

Commissioner Lippert: No, it is a quarter after eleven now. We talked about having a time limit on this. We have exceeded our time limit. I really think that at this point it is only fair to table it and to continue the item until a date certain.

Vice-Chair Tuma: Okay, Commissioner Keller.

Commissioner Keller: I think that we have a member of the public who spoke to us tonight and patiently waited through three other long items and we didn't get to this until after ten o'clock. I believe that we are not that far away from actually concluding the item. If people want to comment on the motion that I would make and decide that they don't want to do it or whatever, I would like to make it, and then we can withdraw it if we wish to. I believe that considering that the member of the public has been here listening through our other comments for roughly four other hours that if he can wait through comments of the Commission for four hours waiting for us to make a decision that affects his livelihood then we can spend another five or ten minutes dealing with the item ourselves.

Commissioner Lippert: Then if I might, that member of the public did sit patiently but he was speaking on behalf of himself and another individual who was not able to be here this evening.

Vice-Chair Tuma: Commissioner Fineberg.

Commissioner Fineberg: I would be in favor of continuing this item until our next meeting not because I am unwilling or not desiring to stay longer. We have suggested some revisions that will dramatically change which projects this proposed ordinance would apply to and I would love to see it as an opportunity for Staff to incorporate those changes so that they are part of the proposed ordinance rather than hastily written amendments in a motion. That would give us a chance and give the public a chance to review it, especially if it meant that we keep the public hearing open so there would be additional comment. I think the impact of this is potentially significant and the fact that we have one member of the public here it is very important to him but I think it is also very important to other members of the public about what this would mean two, three and four years from now. I am not sure that the public fully understands that. So I think continuing it for one week, maybe doing some outreach notification to PAN, developers, other key members of the public that this would impact, whether they would consider it positive or negative. I think that outweighs the expediency of taking care of it tonight.

Vice-Chair Tuma: Commissioner Keller.

Commissioner Keller: Hearing the sentiment of my fellow Commissioners I am going to suggest the following two-step process. one is I am going to outline what my motion would have been, which I suggest be a straw poll that the Staff if people sort of agree that is sort of a way to go might be drafted by the Staff so that when they come back to us they could have this incorporated into the motion as per Commissioner Fineberg's comments. Then after that straw poll I would make a motion to continue it to a date certain being a week from tonight. Does that sound reasonable to the Chair?

Vice-Chair Tuma: I think that given that this is an ordinance. We are only going to see it once, well sort of. It is not going to come back to us another time after it is drafted. I do think there is some wisdom in seeing – my sense is that this Commission wants to see a significantly different ordinance than what it is there. So I think it may make sense to just spend a couple more minutes, hear what is said, do a straw poll because that could give significant guidance so that when we come next week we have an ordinance that is much closer to something that we would

potentially be comfortable with. Believe me, Commissioner Lippert I was bound and determined to get out of here by eleven o'clock. It didn't happen but I do think this will make next week's meeting on this topic much more productive. We will have something much closer to what we might actually be willing to recommend approval on. So I think it is worth an extra two minutes here. Go ahead.

Commissioner Keller: Here is what I would suggest that we can consider for straw poll. Firstly that there be no automatic extension. That there be up to two discretionary one year extensions which can be granted unless there are major changes, which is the comment or whatever wording Staff had before, or other general conditions that the Director may determine. So that these be explicit conditions that people are aware of and they can get a list of the conditions. That in order to get a discretionary one-year extension that the building has to satisfy the latest version of the Green Building Ordinance. That code and Comprehensive Plan changes be incorporated at the discretion of the Director. That it not apply to PCs or Site and Design Review items except by either Development Agreement or upon recommendation of the Planning Commission and Council approval. Finally, that there be no demolition before the Building Permit is issued. In order to grant an extension they can't do a demolition unless the Chief Building Officer and Planning Director approve and that is usually for things like unsafe conditions such as a fire in a building that would be a hazard. Thank you.

Vice-Chair Tuma: A point of clarification, currently there is for certain of these there is an initial – is there any automatic extension of these?

Ms. French: There is a one-year extension by Director for everything except Site and Design.

Vice-Chair Tuma: Okay. Are you proposing to eliminate that?

Commissioner Keller: No, I am suggesting that this be beyond that automatic.

Vice-Chair Tuma: Okay, great.

Ms. French: So this is up to two one year extensions beyond the one year extension we have now or?

Commissioner Keller: This is up to two additional one-year extensions beyond what is going on now. One of the interesting things is I want to make sure that we don't have a rush to finish before June 30, 2010 when suddenly if you get your approval on June 29, 2010 you get a whole bunch of time to finish your stuff, and if you get your approval on July 2, 2010 you are suddenly foreshortened. So there are anomalies going on there. That is part of the reason for having it be discretionary. Thank you.

Vice-Chair Tuma: Commissioner Holman.

Commissioner Holman: A quick clarification for Staff to bring back is for Site and Design just what is meant by a two-year extension unless associated with a Vesting Tentative Map. So if you could come back with clarification of that. I think that would do it.

Vice-Chair Tuma: Okay, with that maybe by a show of hands, all those who would be potentially supportive of an ordinance that has the contents that Commissioner Keller has suggested indicate by raising their hand.

Commissioner Lippert: I am just going to go along with it. I will listen to it when it comes back.

Vice-Chair Tuma: Okay, very good. Commissioner Keller, do you have a motion to continue this to a date certain?

MOTION

Commissioner Keller: Yes. I move to continue this to a date certain of one week from tonight.

SECOND

Vice-Chair Tuma: I will second that. Would you like to speak to your motion?

Commissioner Keller: I think there is enough said.

Vice-Chair Tuma: Okay. The only thing that I would say, if possible is let's do this item first unless that presents a problem.

Commissioner Lippert: We can do that when we get the agenda.

Vice-Chair Tuma: Right, I am making that request.

Ms. French: The packet goes out tomorrow we can make it be what you want it to be.

Vice-Chair Tuma: Okay, let's make that one first. Commissioner Lippert do you have a comment before we vote?

Commissioner Lippert: Yes, I had one other question for Staff. How does HRB review fit into this approval?

Ms. French: Well, HRB is typically part of an ARB process that would recommend an addition to the ARB to the Director for residential projects. There is input on modification to historic residences, and these kinds of things.

Commissioner Lippert: So it would follow a parallel.

Ms. French: There is no standalone HRB approval in other words. It is married to one of these other process.

Commissioner Lippert: Okay, that is what I wanted to make sure.

MOTION PASSED (5-0-2-0, Commissioners Garber and Rosati absent)

Vice-Chair Tuma: Okay, with that Commissioners, all those in favor of the motion say aye. (ayes) Opposed? That passes unanimously.

We will do approval of minutes next week and also Reports from Officials.

APPROVAL OF MINUTES: Special and Regular Meeting of June 24, 2009

COMMISSION MEMBER QUESTIONS, COMMENTS, AND/OR ANNOUNCEMENTS.

Vice-Chair Tuma: I will just note one thing on Commission Representation at Council we don't have anybody for August. There is an August meeting and I will take that just as a continuation of my July. So you can put that in there.

Anything else? Commissioner Keller.

Commissioner Keller: A couple of quick things, which I am sorry to stretch things out. I had a nice tour of the Calera Cement plant in Moss Landing between Santa Cruz and Monterey. It is actually very interesting because they are doing a form of carbon capture and sequestration to create what are called supplementary cementitious materials, which is kind of interesting. So I could give more information about that next week.

The second thing is I received informal feedback to the comments I sent with respect to 101 auxiliary lanes. I received those comments this morning. I would encourage putting on our agenda sometime in the future us recommending that there be a 101 onramp from San Antonio Road and auxiliary lane, that the City Council write a letter requesting that that be done sooner rather than later so that it can be incorporated in the VTA's decision-making process for prioritization of VTP 2035 Plan.

The third thing I would like to say quickly is that it is quite unfortunate that we did the Pepper Avenue traffic calming measures that should have been coupled with a right turn lane from northbound El Camino to eastbound Page Mill Road. Both of the properties along El Camino at the corner of Page Mill Road are being redeveloped eliminating that potential for that right turn lane that would eliminate the need for the cut-through traffic on Pepper. I think that that is a failure of planning and I think it is unfortunate. Thank you.

NEXT MEETING: Regular Meeting of July 29, 2009

Vice-Chair Tuma: With that we are adjourned. Thank you.

ADJOURNED: 11:28 PM