

City Council Work Session Transcript – 02/11/2014

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>> I'm going to call to order this meeting of the austin city council work session and we'll start with the pre-selected agenda items. We have item number 44 which was pulled by council member morrison. >> Great. I think maybe one or two of the sponsors is here. This is an item to do more analysis, so look at putting together and in place some homestead preservation districts and look at the possibility of tests and all which I appreciate. One of the things I asked staff about and thought it would be helpful if we could talk about it today is I would be interested in getting these tests in place this year and I just wanted to make sure we all understand the timeline that we would need to follow and all the different pieces we would have to go through to make the decision and actually get the tests in place this year. So I wanted to ask staff -- hopefully there's staff that can talk to this question. It's not a surprise question. So if you all wouldn't mind sort of working back for us and helping us understand the time line. >> Betsy spencer, neighborhood housen development. We see this as an opportunity to take this different information and being able to utilize that existing information and get current data so that we can understand the financial impact for this council if they choose to create districts.

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>> Financial services. I think what betsy said is right in line. The i.E.C., We've laid out

for 180 days. There's a lot of work to do not only the programming side of the districts but also look at the financials. We'll look at all other options as well, but to undertake the studies, to come back and get the market analyses done. We've done similar studies in the past on different efforts, and, so, we believe we can come back in august, which is a good time in the overall context of the budget discussions that will be going on to have the land back here for the policy discussion that would need to occur. >> Under the statute there are other steps to take in terms of jurisdictions and timelines and how much time we need to give them. Would you lay out what shows should be? >> Similar to 311 tips, there is a schedule for establishing a zone. The homestead preservation is slightly different but follows most of the same methodology where there is notification of our other entities from a participation perspective but at least from a notification, public process is public hearings and, so, again, we feel august is an appropriate time frame to land the studies and then start the discussion to give you adequate time to give you something set up by the end of the calendar year which is when they need to be set up for them to be triggered if, indeed, it's something the council desired to set up. >> I thought it was 60-days' notice we have to give, if that's accurate. >> Under 311, it's 60 days and

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that would be sufficient time to get those noticed and gone through the tiff process. >> We get it back in august. Hopefully, we make a decision in august or september and give them 60 days. That takes us to november and we can implement them in december? >> Again, like any tiff, as long as they are created at the calendar year, that is set as the base year. >> We don't want to slip past august, I guess. >> There is a lot of work that needs to be done. It's a large area for marketing. It will probably be the largest market areas we studied. The portion that we have done some similar studies in the area and think we can leverage that work as part of our transportation studies we've done in the past. Airport boulevard study, there might be a piece that catches that. We'll look at leaf badges existing opportunities first and move forward and that's one of the first things that we'll have to sit down with betsy and her staff and put together a detailed work plan about how all this is going to get done and part of that would be -- part of that might be coming back, asking for some contracts to get done and funding for those contracts potentially and that's kind of the work

we'll do here in the next couple of weeks and run that back with the city manager and take it back to council as needed. >> Potentially we have contracts in place as opposed to having to do a whole -- >> we're going to look at our existing contract opportunities that we have with some of our consultants that have done this work in the past and make sure that we can, again, utilize those and, if not, I do want to reopen the possibility that we would have to come back and ask for additional contract authority. >> Right. And I want to just mention to my colleagues here that one of the things that's mentioned in the resolution that's very important is that this could well -- these districts, many of them, could well tie into potential rail or

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EXISTING PODs, ALREADY, SO I Think that's great and one of the things I hope we'll be able to -- I have been talking about and hope to be able to move forward a little more formally soon and that is that the homestead preservation districts would be one piece of the puzzle in terms of the overall plan we would present with regard to rail and affordable housing. And the great things the feds are requiring, that we have a very -- well, they're asking that we have a very specific plan in place and not just ideas. But a plan and funding strategies and policies and actual revenue. So I think we have a really great opportunity here and this is one very important piece of it. >> I have follow-up questions. First of all, I want to go back to the question about does the proposed tiff already apply to all zoning classes or just residential? >> Gina for hood housing. It applies to all zoning classes. >> All zoning class, so that's a little more sweeping than we talked about originally, I believe. The resolution states that there may be some conflicts with our existing tiff policy. What are those? Greg, can you answer that? >> Well, I think, certainly, the TIFFs WE HAVE WITH IMPLEMENTED In the past have been project' SPECIFIC TIFFs, FOR MUELLER, For waller creek. I think, when the legislation

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was passed, using existing tool in different manner, so, certainly, legislatively, the tool is there to use, but it's not something that we have -- it's not a tool -- the tiff is not -- we have not used a tiff in a manner allowed by the legislature under this

legislation. So that in itself is a little bit different and that's why I think we want to go off and do the studies, look at the tax impacts, and come back and present you the full picture of all of those -- all of the implications of using a tiff, using this tool under the circumstances for the preservation. >> Okay. So when you say that it conflicts with existing policy, you're not saying we just haven't done it before, but you're not saying we're reaching any of the caps under the existing policy? >> Well, again, from a policy perspective, certainly we have cap on our 5%, that's part of the analysis we need to do is to look at not only the current assessed valuation in the potential districts -- I use the word "potential" at this point until staff looks at, from a programming perspective, what types of initiatives that need to be undertaken and we look at costs associated with those. Because the financing and the programming side have to dance together, it's not just the funding on its own, but certainly one of the main reasons to undertake market studies is to see the projected increase in av, so then we can take that back into our overall, you know, tax rate modeling and seeing what a tax rate and also where the overall av is as well. So that will be part of the answer that comes back as well as other discussions about any other -- I think it's a conversation that's been going on now for probably 18 months, other potential tax increment

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finance zones that are established or will be established so that you can see the full picture of impact on that policy, that 5% policy as well as impact on tax rate impacts as well. >> Okay. So when we talk about the impact on other policy decisions and the fact that some of these areas have been speculated as being used for rail or they're already , is that going to be part of your study, the implications of that? >> Certainly, I think part of any context to any studies that are completed, we want to show -- most of the studies we've conducted is we try to bring all the players to the table to understand the interaction. So, obviously, this is the -- housing is kind of the main impetus to look at this, but transportation -- greg guernsey's group will be there to look at opportunities. Again, some of the work we've done from a transportation perspective, we have kind of done some studies to look out there, especially along the red line, to bring those back in and look at it comprehensively. So that's the context. We always like to have context about the real estate market studies

because, in essence, you're looking at an absorption to see what the market can absorb if xyz happens. We're not looking at a projects like a redevelopment of an old airport, it's a different take on the tiff, but that being said, I think the market analysis still sets the baseline for all the other activities going on in these potential districts and, so, first and foremost, that's the context that we need to even be able to prepare the studies, so we bring those back as part of the answer and that helps kick off the policy discussion. >> Okay. Sounds like you're going to bring us back a lot of

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information to help us make a good decision. Let me ask you, the original homestead preservation district focused on community land trust, and the memo we received seems to indicate that we had more flexibility in terms of what the revenue generated could be used for. So I didn't see those changes in the state law. Can you describe for me what would be permitted -- are you going to look at it from a housing and transportation? I got that impression from greg's comment but I'm not sure. >> From our perspective, we'll certainly look officially at the housing opportunities and, so, homestead preservation. So one of the programs that could be funded through this potentially would be a repair program. So it could help with gentrification in areas where folks are having a hard time staying. We'll certainly look at what the greg said in the past, the TIFFs HAD BEEN Project-specific, so we would look at programs we would administer. We clearly, though, want to look how these potential programs would complement transportation, economic development. We really want to -- we don't want to compete with other programs, we want to work in concert with those programs, so we would be looking to where our preservation programs could compliment those efforts. >> So just like we have the repair program as part of the housing structure, you think some of these funds could potentially be used for that?

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>> Yes. >> And the riverside, as you mentioned? >> Yes, ma'am. >> So really this isn't only about homestead preservation, we have expanded to think about other values and concerns and I think that's very positive for it to come back in a comprehensive

manner like that. Council member morrison. >> This is interesting. In the near future, I want to try to put a bigger umbrella around it just like you're eliciting here in the conversations is how does this really play together with job development and job centers and all around our transportation corridors and making sure they're affordable. But I think that's what I was interested in working on, if you would like to work on it with me, too, is to try to bring that larger picture to the fore. Obviously, we have been talking about all those things together but really meat and potatoes on the programs and the conversations between the departments I think would be in order. >> I do think it's in order and I'm very glad the departments are working together so that we aren't thinking about if I having all of these areas and not getting maximum use from those potential revenues for our other values. >> Absolutely. >> So any more comments? Council member riley? >> Riley: Yeah, thanks. I'm glad to see this resolution comingward and appreciate staff's cooperation and willingness to dive into this to get a full exploration of possibilities. I'm also glad to hear that we're interested in a fairly broad scope that, yes, the homestead PRESERVATION AND TIFFs NEED TO Be an important part of it, but they're not the whole picture. In fact, the language of the resolution appears broad enough to encompass a whole array of funding strategies and that they go beyond just value capture. In fact, the second "be it

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resolved" paragraph said members are directed to develop criteria to determine whether a land is unproductive, underdeveloped or blighted in an effort to comply with the tiff policy ." I had a question, one of the tools that gender some discussion is possibility to use underutilized city propertying that could be developed for housing. I'm not sure if it's homeownerships or would work in a home preservation district, but, nevertheless, might well be within a time or anotherary, or within the boundaries of our homestead preservation district. There may well be city-owned property that is underutilized. Picture a very large surface parking lot that could be made available for development that integrates parking to serve whatever city function that the parking serves, but nonetheless, involves land that could be made available at a lower cost than market rate, privately-held property. So my question is would that -- would some assessment of that be within the scope of this resolution?

Could we take a look at underutilized city-owned property to assess whether there could be some potential for making it available for affordable housing? >> Well, certainly, when we start the studies, we're looking at it from a market perspective. In an essence, it's kind of a mini land-planning look at what the zoning is around in any specific district. So as there are parcels in these districts that are city-owned, the first and foremost thing we want to do is to ensure that the current city serves that are utilizing them continue or are fully functioning without additional costs to them. Certainly, if we identify

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through that process a parcel, whether a parking lot or something else, that is from not only our current needs but also our future needs from a city facility perspective, can be accomplished some other way and certainly that can go into a discussion from a programming perspective. And that's where we balanced back and forth between the financial side of it and the programming side of it. So certainly I think the way the resolution is written, those aspects could be identified during kind of our work effort. >> Riley: I think it would be helpful to get a good understanding of all the tools on the table. I appreciate your willingness to look into it. >> Spelman: Mayor pro tem. >> Cole: Council member spelman. >> I think we would work on that. >> Cole: Council member spelman, I think I would probably entertain adding an amendment to the "whereas" clause that it may conflict with the city of austin tiff policy and simply say if it had not been done pursuant to the tiff policy. Would you be comfortable with that, greg? >> I think it's something you may add again. It's not - the legislation is -- well, I think it's gone through several iterations. It's fairly new legislation. I think we're on our first look at it. Again, I think from a -- I can't speak from the legal side, but certainly legislatively, they set up this tool for us to look at and investigate and that's what we're doing. >> Cole: I simply feel a little uncomfortable saying that it's conflict productive policy but we're voting for it anyway. >> Spelman: Adding additional language to suggest that the reason we're concerned it might is we've not gone through it before. >> Cole: Yeah, I understand, but it's the potential that

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we'll kind of lay that out better, especially the 5% clause. >> Spelman: We actually call that another "whereas" if you think that's a good idea. >> Cole: Yeah, I think that's a good idea. I also think it might be a good idea to clarify that we are going to be looking at not only affordable housing financing strategy but also transportation strategy. Is there a reason -- >> that, I think, would be a different resolution. >> Cole: Okay. .>> Spelman: THIS IS TRYING TO Implement the three bills for the benefit of affordable housing. We'll get downstream to talk about transportation. >> Cole: We have a whereas clause that includes transient development areas such as uth m.L.K. So that's already covered in the resolution though not in the be it resolved clause. They're part of the district and would be part of the analysis. >> Cole: So those two items would be included. >> Spelman: Absolutely. >> Cole: Other commence? >> Tovo: I want to thank my colleagues for all the feedback and the suggestion and sounds like there's a good deal of support for this effort and we'll be happy to see it moving forward. So I'm certainly comfortable. I think we'll need to check with the lead sponsor on those, but the suggestions people have raised made good sense to me and thank you to the staff for all their work already on this. >> Cole: Moving to item 47 pulled by council member spelman. >> Spelman: Again, it's unfortunate the lead sponsor is not here, so I ask is there

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anybody who can talk to this item from there? I see them coming up. >> Good morning, mayor pro tem, harry evans, austin fire department. >> Cole: Good morning, harry. >> Spelman: This is something which as a council we haven't spent any time talking about. A conceivably expensive item but obviously a very important area. I would like for you to walk us through what it is -- well, first questions we don't need answers for. Wildfires are extremely expensive and dangerous and we need to detect them quickly. We all understand that. >> Yes, sir. >> What I don't understand as much as I should is what current policies and procedures we have in place to detect wildfires early on within the first few minutes. The extent to which an automated system can be expected to improve on our current procedures, and then why this automated system -- why should this be the one -- why should this be the vendor and this be the system we start negotiating a contract with. >> Pretty

good question, sir. I have a jebtman who's been with us since we started looking at this since 2012. With your deference I'll pass it to chief artist. >> Thank you. We've looked at early warning systems previously or I have throughout my career. Most of them are camera based. This one is specifically for smoke and it picks up smoke, which is a similar -- it's a space technology used for comets and the tail off a comet has a

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similar spectrum to smoke and this was in germany and they transferred it over to this and it's been used in germany. There are some texas a&m forest services doing research on it, too, and they're set up in the east piney woods of texas. There's a system set up with this technology, but it's really the only technology I'm aware of that does this type of work. So that's an answer to that one question. >> Most of them are based on visuals. You can see the smoke trail and this is actually based mostly -- this is a smelling system? >> Well, it's the spectrum that smoke puts off as water vapor and it's similar. That's as far as I can go, sir. >> Spelman: Okay. >> But it has less false positives than another system. You can look at something that looks like smoke -- it can be dust or other things. The whole thing is about early warnings is you want it to be as accurate as possible. >> Don't want to waste your time on false alarms. >> That's correct. >> Spelman: You're saying that texas a&m is experimenting with this in the piney woods. I also saw you and your staff sent around a report from australia which seemed equivocal was there was only one wildfire in the test period. Would you tell us how we know the false positives will be low, how quickly they'll be able to detect a wildlife in our conditions and that sort of thing. >> I think that's where I need to research more. >> Okay. >> The texas a&m study I have here, I can leave you a copy. They have triangulation where they came up with the minutes. All the minutes are different day and night, but it does have that. That's some of the research we need to do just to confirm it and see where and how it works here. The city of westlake has the tower up in westlake hills they're working with now. So we'll see how it works there.

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We're in information-gathering thing now. >> What time frame do you have in making a decision? >> We would like to get back with you folks as soon as possible since this is an important issue, but because we're dealing with some other city agencies, city partners that have to be part of this -- this, it's not just fire, we need a handful of months, if I may. >> Michael McDonald, deputy city manager. In addition to researching it that way, it has -- in my understanding, it hasn't been used that often in many areas in this country at this point, and, so, we want to research it to determine if it's something that we're prepared from a staffer's respect to even make a recommendation on whether we use in or not. >> Okay. The current resolution is written up to the point of negotiating a contract. Seems that was premature given we haven't really done that background research yet. >> We haven't. >> We're talking about a handful of months, maybe three or four. Sounds like it would be -- >> three or four months. >> We could not reasonably expect to have these things in operations, negotiate a contract and have these things in operation before our wildfire season starts. But this is one of the things you're thinking about so we can catch some of that, at least. >> And it is certainly expensive so I want the chief from a staff recommendation to weigh that in with some of the other needs she may have in the organization as well. >> I completely agree. How long do these -- I shouldn't call them cameras. How long do the sensors last? Do we know yet? >> We don't have a definitive answer on that. Again, technology moves pretty quick and I think we're well with aware of that. New technologies also move very quick. I don't have a life span. That's something we would be glad to take a look at. They have been up and running in

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germany for a handful of years. I don't know if it's hit a decade yet, but it may be around that period of time and we can look into that. >> It would have a big bearing on how to finance it, whether we can pay for it on time or in cash and it would have a budgetary effect. Thank you. >> Cole: Next item is item 86 pulled by council member morrison, occupancy limit. >> Morrison: Thank you, mayor pro tem. Obviously, okay pansy, I think, -- increasing the occupancy limits is generating a lot of conversation in the community. I have had a lot of meetings and I s others have too and community folks are talking about it quite a bit and I am certainly in general support of the

concept and there are several different points I wanted to bring out and actually get some input from staff on some things, some ideas and different ways of dealing with things because I think, from my perspective, what we have in backup is not quite cooked. So the recommendation we got from planning commission and I feel other folks might feel the same way. A couple of things just to get out of the way quickly, one issue that's been raised has been a concern about having to define unrelated adults because, actually, that's nothing new, but it might become more of an issue if we lower the occupancy rates, and that's something we actually discussed back in August we had a resolution in August -- I believe you were a co-sponsor with me, council member Spelman -- to actually address the issue that occupancy is defined in terms of unrelated adults and asking staff -- well, we initiated a code amendment to change the language to ensure that it did not discriminate

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against I think what we term non-traditional families, in particular for instance, same-sex couples and all. So I wanted to just mention that we're dealing with that right now and ask staff if they could just give us a status on where we are on that. >> Gary, planning development review. In response to that resolution that's working its way through the process, I anticipate I'll have a memo to hand out to you Thursday. >> So we'll be able to integrate that. I know other folks have brought that up as one of the concerns one way or the other that's needed to deal with. And then another concern that has been raised is the issue of reasonable accommodations, that is maybe you can describe more of what that is but it's in terms of fair housing and all that if there are folks that are affected -- that are protected under ADA we need to make reasonable accommodation and one of the questions that came in surrounded that and asked about what is our process for reasonable accommodation and, surprisingly, I think it was council member Riley and I at least did a resolution back in August asking staff to look at that and put together for us the defined process for reasonable accommodation. I don't know that we've heard back on that yet. Are you familiar with that? Can you give us the status on that? >> No, we don't have anything to do with in the fair housing act. I think I'd have to refer to that to the law department. >> I apologize. I don't have a particular process. I can speak generally. Per housing law, if someone requests reasonable accommodation, they need to be

provided with that opportunity. So I'm not sure about a specific

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process, but anyone who requests reasonable accommodation, if it is determined they are in a specific category and eligible, they should be granted that in. >> THE LATE '90s, THERE WAS A Case that dealt with a group home, city of edmonds, washington vs. Oxford which is a company that dealt with group homes and there were 15 individuals unrelated living in a single-living unit and the case initially went to the united states supreme court and ruled in favor of oxford house. At the time, the city pretty much recognized property owners that came in and announced they have a protected class, in this case drug and cholo fenders that were living in this situation, but these cases that contained code compliance, we did not enforce occupancy on these particular uses as they came in. They came in as single family homes, more than six unrelated people, and they were investigated and in most cases we allowed the situations to go on. May have to obtain permits that may have to do with a boarding house license for safety purposes, but for the most part the occupancy limits did not and have not allied since that time. >> Council member I'd like to provide context. The city has a fair housing office that deals with fair housing complaints. The law department's role as it is with most departments, we provide legal advice both to that office and code compliance if there are complaints regarding compliance with state and federal fair housing laws. So trish can talk to you a

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little bit more about that. What happens if we get those complaints into our office. We provide proactive advice, maybe if they're dealing with a fair housing issue, and trish can talk to you a little bit about what we do if we get a complaint that somebody has violated any of those laws. >> I would appreciate that, if it's something that we could get quickly. >> City attorney. We have two things. We have our fair housing office, which is the give meant to hud, and they investigate complaints filed with their office under our city code or the federal fair housing act. But we also, in the law department, advise the individual departments when a fair

housing claim comes in, in terms of -- I think the best example is enforcement for code compliance. And to go to your question about whether or not there is a specific process, I think the simple answer is, no. How we -- they have been handling it over the years is not actively enforcing when someone has claimed a disability such that they would be entitled to a reasonable accommodation. However, the code was recognize for certain issues variance and exemptions processes. So, for example, under the zoning code, it would traditionally go to the board of adjustment if there was a request for reasonable accommodation, it could be handled that way. But I think, to date, we have not used that process. I'm not aware that we've used that process, but that is one mechanism that can be done to handle the zoning issues. If there's a variance required under a different code, we would look to whether or not that particular code has a specific

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board or commission that could hear a request for a variance. >> I'm a little confused. Either the director doesn't enforce it or you ask them to go to the board of adjustment. Did I miss something? >> No. >> Okay. And how do you decide which way you would go? >> At this point, I don't know that anyone's been asked to go to the board of adjustment. >> So resolution, be it resolved -- to engage with stakeholders, the mayor's committee for people with disabilities and the community development commission to explain the process and receive input and to report to council by January 1, 2014, on whether changes to the process are recommended or anticipated. So should I assume that's still in the works? >> I think that's a good assumption. >> Morrison: Okay.

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>> Cole: So I'm assuming that alcohol and drug offenders fit within the class of what we commonly called gluecode, and would they be protected from application of this ordinance or not? Greg, is that a question for you? >> Yes, they are they have been protected under our ordinance, although there are certainly definitions for group homes, 1, class 2 and family homes, which varies slightly as to number or type. If we have -- and I believe we have had, since that that United States Supreme Court case,

instances of code compliance where staff have had the capability to go out and investigate a halfway house. It might be licensed to the state. For all practical purposes it will look like a single-family home. There's no additional requirements necessarily for that facility under our zoning regulations to do anything different. If the house exceeded its capacity for health safety reasons, on the building codes, then we would go into action with our housing enforcement and they would pursue a typical violation. I actually had a halfway house that operated for many years within my neighborhood, only about four doors from my house, with the exception of having some more cars parked on the street, you really couldn't tell there was any difference of that house versus any other. It was asked by many of my neighbors about this facility, and it was just a permitted use and we allowed that use to continue. >> Cole: So -- >> so no, there is not a conflict as far as our enforcement goes, for a facility like the halfway house, drug and alcohol offenders living in a family unit, housing codes as far as occupancy limits, square footage, those are allowed to continue. >> Cole: So we wouldn't need -- >> with or without this

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ordinance. >> Cole: With or without this ordinance. >> Mayor Ieffingwell: Council member tovo? >> Tovo: I had a quick follow-up question about the discussion -- about reasonable accommodation. Is it necessary that a particular ordinance specify that individuals in need of reasonable accommodations have that opportunity or is that just understood? I wondered as I read the ordinance whether it needed to be explicit on point. Or it just a part of really all of our ordinances and shouldn't be repeated? >> Could you -- I'm sorry, could you repeat your question? >> Tovo: Sure. So we had gotten some feedback from you about reasonable accommodation outside of the discussion here today, and as I read the ordinance, I wondered if it needed -- if the ordinance itself needed to say individuals in need of reasonable accommodations, you know, might be exempted from these provisions, or whatever language would be appropriate, or is that just standard to all of our ordinances and thus isn't mentioned in individual ordinances, because they always have the right to reasonable accommodation. >> It is not mentioned in our ordinances. Traditionally you would to see if you could get a variance or an exception from the requirement. The city could create an ordinance that would set out the policy and how -- the

reasonable accommodations and how they should be handled. Because a true variance or exception, unless there's authority for it under the code, staff can't waive the code requirements, so that could be a way to handle that issue would be to create a reasonable accommodation ordinance that sets out the process. >> Tovo: That might be one response to suggest, to the resolution, that was brought forward this summer, creation of another ordinance.

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>> Yes. >> Tovo: But would you -- do you believe it's necessary to have it be explicit in this ordinance that individuals might be entitled to reasonable accommodations or is that just understood because they have a right to reasonable accommodation for all of our ordinances? >> I would say, council member, it's understood, because it's a federal law that would apply. >> Tovo: Thanks. That's helpful, because we have -- as council member morrison said, have gotten questions about that and I want to be able to explain to people why it's not specifically called out in this ordinance. I have some other questions but I think someone else had the floor. >> Mayor leffingwell: No, you do. Do you have the floor? >> Morrison: I did but I was going to go on to another topic -- >> mayor leffingwell: Flour no more questions on this? Council member riley? >> Riley: If I could just follow up on that last point. Council member morrison described the resolution passed last summer about reasonable accommodations and was asking staff to come back with some report on that, and so my question is for law, could that report be a step toward the kind of reasonable accommodation ordinance is -- that you just mentioned? >> Yes. >> Riley: Okay. I will look forward to that staff report on hopefully we can move forward. Thanks. >> Mayor leffingwell: So there's no more discussion on this item -- >> morrison: Actually, no, I'm staying on this item but there are many subtopics on -- >> mayor leffingwell: Same item, okay. Go ahead. >> Morrison: And accommodations -- >> mayor leffingwell: First can I say I apologize for being late but I was doing the roll-out of the st. David's dental land thing. We had a great time out there. It was cold. There was no heat. All right. [Laughter] >> morrison: It's smile week or something, isn't it? >> Mayor leffingwell: It's smile week and I got my dental packet. >> Morrison: And we're all

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smiling. [Laughter] >> mayor leffingwell: Well -- I can probably demonstrate that. See, I'm going to carry this with me all the time. [Laughter] >> morrison: Now you made us all smile. And I do just want to follow up on this. I'm frankly surprised to learn that maybe we should be asking these folks to get a variance, which would be quite a burdensome -- could potentially be quite burdensome, so I think that it brings to light the importance of this resolution, and I wonder if we could soon get a response from staff as to when we can expect a response. So we'll make sure it doesn't fall through the cracks. I don't know if you can tell me when right now because what -- we asked you to go to a couple boards, mayor, people with disabilities, cdc and reach out to stakeholders and obviously there's some -- I think we all know some folks who have been very engaged. So it's going to take a little while and maybe have to figure out first, so if you could just in the week let us know what the timing will be. >> We'll do. I think that's right. >> Morrison: Great. Mayor, I was going to next bring up the issue of grandfathering, if -- >> mayor leffingwell: On the same topic? >> Morrison: On the same topic. >> Mayor leffingwell: Go ahead. >> Morrison: Because I think that's -- there's -- there's a lot of options for how we address grandfathering in reducing the occupancy. I have heard a lot of different ideas, and whether they are the way they are in planning commission recommen, which doesn't really deal with grandfathering completely, making them legal, nonconforming. I've heard a suggestion of making them legally conforming. We have -- we have a

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suggestion from some neighborhood advocates, this idea of people submitting affidavits to actually claim grandfathering. I -- I would hope that we might be able to come up with some ideas of how we might eventually phase out the -- the -- the right to have three per duplex or six so that they're not grandfathered forever. But I wanted -- I wondered if staff could sort of explain what some options are, and if you have -- if you all have a recommendation, I'm not sure if we heard if you -- if you put that in the staff report or not. >> It's a big topic, lots to discuss, and I just wanted to make sure we had time to go through some of it. >> Guernsey: Mayor and council,

greg guernsey, planning and review. I am a signator on a leasehold in hyde park for my daughter, which occupies a duplex, with four unrelated individuals. So as I'm speaking I'm not necessarily speaking on behalf of my department. I've actually removed myself from discussions. I've actually spoken to this with several stakeholders before so they are aware that I am a party to a lease till 2015 where I'm responsible for a portion of a duplex. And so I can answer questions how we've treated grandfathering relating to two-family residential duplex and single-family homes. In the past -- in 2003 I worked with the planning commission and city council to amend regulations that reduced the unrelated occupancy, going from six per side to three per side, and also reducing the number

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of individuals in two-family residential in 2004 to reduce that number from six in a two-family residential, basically the garage apartment, and six in the front. When we put those provisions back in the code in 2003 and 2004, we basically said those that preceded that date were grandfathered, basically, that could keep those occupancies as long as they maintained that use. The actual number related to the individuals could fall or rise, but they could not exceed that limit of six, and after those dates of 200 2004, for duplex it was limited to three per side or two-family, it was four in the front and two in the rear. Back in about I think 2011, 2012, the west austin neighborhood came to council, also came to me, and asked questions in regards to these existing grandfathered duplexes expanding, and if there would be some trigger that could be put in because they were finding some of the grandfathered duplexes were actually getting larger. And so at that time there was a provision that was put in the code that basically said that if you added 69 square feet and that 69 spoke to basically allowing enough room for someone to add a bathroom but maybe not add a sleeping bedroom, which is 70 square feet or larger, that you could do that and not change your occupancy, but if you added 70 square feet or more to those structures, suddenly you were subject to the reduce the occupancy rate, dropped from six to three for a duplex side, if you were to add more than 70 square feet. So those are the provisions that we've had in the code. There is an allowance currently on the code that you could have not more than ten unrelated individuals, if the persons are 60 years or older, they're acting

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together in a single housekeeping unit and the persons are self-caring and self-sufficient, participating in the daily operation of the dwelling unit, if they're over 60 the codes allow you to have up to ten and that's currently within the code today. I don't know if those facilities actually exist in austin, because they would be permitted by right in a single-family zoning district. So if the uses were to change and they'd fall under our normal nonconforming use section of our code, if a use were deceased, if you went from a duplex and changed it back to a single-family home, then that 90-day provision that you have where use is abandoned, would fall into play and you could not go back. >> Morrison: Could I say a question right there? How do you determine if a use is abandoned? Like if it's not rented -- >> no, we have lots of buildings that have difficulty renting, that may -- because of whatever reason, they might not find a tenant for several months or years, but if a water meter is pulled or the use is actually -- uses change, you pull your electric meter, basically you've abandoned that. It cannot be used as a residence. Those have been typically seen as evidence. We've had instances where we've had buildings that have been -- say lost all their parking along 183 because of widening of 183. The building, let's say, it was a cocktail lounge or bar, a case I'm familiar with, it sat vacant for several years because it didn't have enough parking. The courts have basically come back and told us through condemnation that that use did not cease, the code remained in the building and even though the bar had not been opened those years because they didn't have enough parking and couldn't find someone to occupy it, that that use was continuing. That was a case that I think took place back in the '90s or late '80s, as I recall. Carl smart has joined me.

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He can probably tell you today what we're doing, but the normal provisions for you ceasing are on the code, which currently speak to 90 days for the use to cease. >> Morrison: And do we know of any examples where somebody has actually gone from being covered under that grandfathering specifically for duplexes to not be? >> Where they've added more than 69 square feet and abandoned. >> Morrison: Yeah.

>> I could not say off the top of my head of a case. I worked very closely with the west university when we created this amendment, so my guess is no one would be inclined to do that if they knew exactly what the consequences were, unless they were actually changing the use to a permitted use. And I might turn to carl roar, jerry, if they have an answer. >> Council members, with regard to the item on thursday's agenda, grandfathering, I believe there have been three different approaches have been suggested. The planning commission simply passed on the idea. They -- we brought it up during the discussion. It was a rather lengthy discussion, a lot of other discussions relating to this proposed change. They basically said, and I'm paraphrasing, that we'll let the council decide that issue. We don't want to get into it. So the draft ordinance that's before you that's in the backup is actually the planning commission recommendation. I've noticed there's been a little confusion, I've seen email traffic, referred to it as the staff recommendation. It's not the staff recommendation, it's the pc recommendation. So they basically punted on the grandfathering issue. The staff recommendation with regard to grandfathering on this particular issue is to basically mimic the same approach we used in '03 and '04 with the duplexes and family residential, such that if you had a structure built today it was grandfathered under the existing occupancy just like

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in 2003 and 2004. If it was built after today it would be subject to the new occupancy limit. If you expanded the structure by more than 69 feet you lose that. We add a caveat if you did it in two-year remodel that resulted in the addition of a building code calls -- calls them sleeping room, we call it bedroom. If you add a bedroom you would also lose that existing grandfathering. The reason is we don't want people who have existing structures to be expanding their homes or remodeling their homes in a way that would take advantage of their grandfathering, but, on the other hand, we feel that it is the simplest and cleanest and most enforceable approach to actually base it upon existing structures because that is what the city knows. We know whether a building was built -- you know, is already on the ground today or whether it's being built someday in the future. We issue the building permits, we issue the certificates of occupancy. So from our standpoint that's the simplest, easiest way to go and there's a rashal in that it's been used before with regard to

duplexes and family occupancy. We lowered the density. The advocates are -- and I don't mean to speak for them but what I've seen that they proposed is an affidavit system whereby this ordinance would apply instantly to everybody. However, if you came into the city and presented to the city an affidavit that stated, for instance, I currently have six renters in my house, you would be allowed to maintain that -- those six renters. You would be under an obligation to the city if that ever changed, if you went down to, say, five, one person dropped out of school, left, whatever, you would have to come in and say, we're now down to five and at a certain point you'd have to come in and say I'm now down to four, I can comply with the ordinance. It would be an honor system through an affidavit reporting system to allow people to keep existing renters, but then they would presumably over time transition out and go back down to the new four limit.

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So those are the three approaches: The affidavit, the building permit date or none at all. >> Morrison: None at all as a third. I guess I have a question. Is there -- I mean, obviously the idea of some kind of allowing people to continue their use as sort of a fair -- they invested their money and it's fair for them to be able to get their investment back, but I guess the question -- my -- what I started thinking about is, is there some fair way to phase out the use? Do we ever do that? Do we sort of amortize the investment and say, hey, you know, you've had this for 15 years. It's fair to think that you would have gotten your money back, so it's fair after that time to have you go under the new regulations. >> I'm not aware of anything we've done with regard to that. I've heard of a similar approach to billboards. I know the city of Houston has an ordinance like that billboards. The only thing I can think of that we could do similar to that is basically have an effective date that would be a date in the future that would give people notice that they had, you know, until such and such date to comply with this and that would allow them basically, I guess, to run through any existing leases, you know, I mean, once those leases expired, so they'd have to go to the new one. But I'm not aware of any other places in the code where we basically amortize compliance. >> Morrison: Do you think that would be complicated? [Laughter] >> yes. [Laughter] >> morrison: Okay. >> Council member? There is a provision in the code where we have an abandonment of the use. Typically this is

one where we annexed into the city, and aside from junkyards, basically auto recycling facilities, sand and gravel operations, if it comes in and it has a single-family zoning category attached to it, they would be given ten

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years to basically abandon the use. They can continue on. And I'm aware of only one case where the board of adjustment has actually granted a property owner I think an additional year or two beyond the ten years where that's a risen, because of some contractual obligations the property owner had. The only one I can point to directly is there was a sapped and gravel operation that existed on -- sand and gravel operation that existed on jolly ville road just west of arboretum and it had to close ten years after annexation. So we have had those that can occurred and they've been shut down after ten years. >> Also, mayor, council, carl smart, code compliance. In our research we've seen -- there are some cities that use the amortization process, where they assign a certain period of time for the use to continue before it has to discontinue, basically, has to be eliminated. We've also seen that there are some cities that use a registry as suggested by the neighborhood, either affidavit or sworn statement or an application that would create a registry of those existing -- those uses, occupancy of six that were existing at the time that the ordinance changed, and they would be allowed to remain. In some cases they would be eliminated or reversed if there was an abandonment of that occupancy, if you will. And another case that we found interesting is where the owner is held responsible for showing proof that they had that level of occupancy at the time that the ordinance changed. So the owner would provide a copy of the lease or whatever documents they might have to show that, yes, they were -- they had six and they're entitled to

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continue to do six for whatever period of time the ordinance would allow them to do that. And there is -- there is some resident set too where a nonconforming use can be lost due to code violations. If an owner is a bad actor and has a certain number of code violations or cases, then they can be in jeopardy of losing that -- actually that

nonconforming status. So there's several ways of dealing with that issue of nonconformity. And also m reminded me that there have been a few cases where we have found property that have expanded their -- expanded -- they got permits and expanded beyond the 69 69square feet and lost their nonconformity. We don't have addresses at this time but we'll be glad to share that with council. >> Morrison: Could you explain how the nonconforming use part of the code plays with the section right now, for instance, that allows you to have more than three? Is that section for the -- if you were -- that went into effect with super duplexes, is that also subject to the nonconforming use? Is it actually -- >> guernsey: Yes, it's subject to that section. >> Morrison: Okay. >> Guernsey: So in the case mr. Smart just mentioned, where if someone did have a duplex that was built, let's SAY BACK IN THE 1980s THAT Was allowed to have fix per side and they added 70 square feet instead of the 69 that's allowed by the code, they would be subject to the limitation of being only allowed three unrelated individuals per side rather than six per side. >> Mayor leffingwell: Can I -- a few minutes ago

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somebody used the analogy of a billboard, and hesitant as I am to bring that topic up, it seems -- I remember the discussion about phasing out big boards was that if we were to assign some life, some cutoff date where you couldn't have that anymore, you would have to compensate the owner for lost revenue, et cetera, for whatever you could figure would be the life of that billboard, and I think discussions at the time were that the life could go on virtually forever as long as you properly maintained it, and the cost was so prohibitive that we really couldn't do it. So would anything like that apply to somebody that owned a property, a revenue-producing property, and all of a sudden we're saying you can't have that revenue anymore? Would the city be obligated compensate the owner of that property? >> I'm not aware of that being an issue in this situation but I will certainly look at it to give you a clear answer. The one distinction I would say between a billboard and a single-family structure is once the billboard has to come down, the billboard is gone. And in this scenario the structure doesn't have to come down. They get to continue to use the structure. They just don't -- they would not be able to have the occupancy limit. But I will get you -- >> mayor leffingwell: But there is a loss of revenue incurred, you know,

if you had a property under the current law, which would be six, and now you're down to four, is that not a loss that they incur because of this law and would you have to compensate? That's something I think we'd have to look at. >> Spelman: Mayor? >> Mayor Ieffingwell: Council member spelman. >> Spelman: On the same subject, I wasn't on the council when we passed the super duplex law. Watches the trigger for

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grandfathering -- what was the trigger for grandfathering for that law? Was it use? Was it co or was it a building permit? >> It was simply -- building permit. In other words, whether the structure wa in existence on june, whatever it was, 2003, then they were allowed to keep the existing occupancy at that time. After that date they did not -- they went down to two per side -- I'm sorry, three per side, which is the current code. So that's the approach that the staff is recommending now that we continue because, like I said, we know what structures exist today and we know what structures are permitted after today and that would be the easiest for us to follow. >> Spelman: In existence means there is a building permit and the building is in some form of -- >> yeah, it would include things that are under way. They would also be considered to be grandfathered. >> Gotcha. Okay. Thanks. >> Mayor Ieffingwell: Council member tovo? >> Tovo: Thanks, I have a quick follow-up question. Mr. Smart, you talked about -- in looking at other cities there were some examples of cities that had amortized or sunsetted the use, and I wonder if those were particular to occupancy or were those about other issues related to code enforcement? >> Primarily they were related to occupancy, and so that -- an example is if they had six, if an ordinance changed to four, they could continue that six for a period of time before having to revert to no more than four unrelated persons. So it was more dealing with the occupancy itself. And I mentioned the one city where -- a couple of cities where they look at good actors versus bad actors. If you got bad actors you could lose your nonconformity based on that. Then you'd have to conform to the new code. It's no the that you couldn't stop renting -- not that you couldn't stop renting it or using it for residential, but you'd have to change the occupancy limit. >> Tovo: Thank you. I just wanted to make sure -- that does sound like a directly relevant example,

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if it was talking about amortization for occupancy, and thank you for bringing up the example about the bad actor and how that might interplay in this. I don't believe the existing -- the ordinance that we have in backup addresses or incorporates a point like that and I think that might be a very good amendment to consider. >> Morrison: Mayor? >> Mayor leffingwell: Council member morrison. >> Morrison: I have a couple follow-up questions. Mr. Smart, in the examples where the -- the cities har amortizing, is that -- amortizing, is that based on the individual age of the property or is this just a citywide, we're going to give everybody ten more years or something like that? >> I'll have to check to be certain, but I think it -- no, it doesn't incorporate age so much as just whether or not it's an existing -- whether the property existed with that level of occupancy at the time the ordinance changed, regardless of age. >> Morrison: And did you also suggest the possibility of having a different -- or maybe mr. Rusthoven did -- the possibility of having a different effective date for those that are in existence today? >> Yes, I believe what mr. Smart is referring to is basically the affidavit system that's being advocated by the people in favor of this ordinance, that if you can prove you were -- had overx you'd be allowed to keep that. You could possibly lose it if you had a code violation, but you'd be able to keep it either forever or for a certain period of time, depending on what it is. But as far as -- I'm sorry, could you repeat the last part of your question? >> Morrison: I can't remember what it was. [Laughter] >> but our recommendation again is just to base it on the building permit -- oh, one idea is to -- you know, to basically say that this ordinance takes effect, say, a year or two years from today, people could be put on notice that, you know, basically let your existing leases run out and that would -- that would be it and then after, you know, some date in the future it would take effect. I'd like to note the planning committee organization in your backup

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has an expiration date in two years, when it was simply convert back to what it is today. That's different than a amortization or affidavit or grandfathering, whatever you want to call it. That's just simply saying two years from today we simply go back

to what we have today. >> Morrison: I'm sorry, let me get something clear from mr. Rusthoven. If we wanted to have the effective date so it let current leases run out or a couple years of leases run out, we could also make it effective for new permits starting today, right? >> Correct, yes. >> Morrison: Mr. Smart, did you -- >> I was just going to add that the planning commission, in looking at an expiration date of a couple years, they were pointing out that they have a working group that's also looking at the issue of high occupancy units, and their hope, I think, was that that there might be something coming out of that committee that would help the issue and that the groups are working on the revision of the development code, that that would be done by that time. And if there is a better answer it may come out within those two years. I think that was part of their reasoning. >> Morrison: Wishful thinking. [Laughter] >> mayor leffingwell: Council member tovo. >> Tovo: [Inaudible] are you suggesting that -- >> your microphone. >> Thank you. Were you suggesting the possibility of having two effective dates -- one effective date for new construction, which might be immediate, and another effective date for construction that's already existing that might be -- >> yes, precisely -- >> tovo: At some point brought into compliance. >> Morrison: I think mr. Rusthoven was just throwing that out. You're not recommending it. >> Correct. >> Morrison: Throwing that out as another option because I think we need to have all our options on the table. But yes, definitely. >> Tovo: And then, have you already answered the question of whether or not we've done that -- I guess you did in terms of the gravel. Okay. Thank you. >> Mayor leffingwell: Mayor pro tem? >> Cole: I have a question. Jerry, can you explain to me again exactly how the new

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construction amortization could work? >> Well, under the -- under what we do with the super duplexes and with the two-family residential, what we said was simply if you had a structure that was already in existence today or basically under construction today, it would be allowed to keep its current occupancy. Any structure built after today would need to go to the new occupancy limit. The exception would be that if you added over 69 square feet you lose that entitlement, and we are including in addition to that, for the purposes of this ordinance today, the -- an interior remodel that results in an additional bedroom would also cause to you lose

that entitlement. Again, the reason is that we -- staff feels that people should be allowed to keep what they have today, but they should not be allowed to expand in a way that allows them to take advantage of what they today. >> Is that your recommendation or just another thing on the table? >> That's a recommendation that's already made. >> Mayor leffingwell: Council member riley? >> Riley: Yeah, a lot of the discussion around this issue has centered on affordability, and I see that we do have -- well, we did have spencer here a moment ago and I wonder if staff would be available to speak to that issue. >> Tovo: Mayor? >> Mayor leffingwell: Yes. >> The is there a chance I could ask a follow-up on grandfathering before we move on? >> Mayor leffingwell: Is that all right with you, council member? >> Riley: Sure. >> Mayor leffingwell: Go ahead. >> Tovo: We have heard a proposal -- we've heard various things, one of my colleagues said, about various proposals regarding grandfathering. I wonder if maybe through the q&a process you could help us understand again -- I know we went through it recently with the riverside plan, the difference between nonconforming uses -- legal nonconforming and illegal nonconforming uses, because it's my understanding that one of the proposals that's been asked -- put forward for our consideration is

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allowing whatever status would permit a structure that burns down to rebuild and have the current occupancy requirement rather than the one that we might adopt through this ordinance. And so I think that's something that we need to consider if we're trying to set something up so that structures are slowly coming into compliance, do we really want to make a category where structures that are currently at a level of occupancy of six, if they burn down are not required to build to the current standards but are required to build to older standards. That would seem to me -- not older standards, older occupancy, that would seem to me to add yet another level of confusion for our staff in terms of monitoring that kind of -- >> we can be prepared to answer that on thursday, if you like. >> Riley: Betsy, welcome back. Your office has spoken to the issue of affordability with respect to this proposed code amendment. Could you state what -- which position has been on that? >> Gina, I'm going to ask gina to go ahead. She's got that with her. >> Basically what we were looking at was when you decrease occupancy limits, that you can

increase our occupancy rates, which can raise rents. So that was basically our argument. >> Riley: And you understand that what we're hearing from many folks out in the neighborhood is that they feel that they are losing a healthy stock of affordable housing through the continued demolition of existing modest structures and their replacement with structures that are actually

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more expensive, and in the process that many properties are taken off the table for families to move into neighborhoods. They can't compete with developers who are coming in to do dorm-style housing in these single-family neighborhoods. And so it just seems odd to me that we're hearing such a different story from the neighborhoods on the issue of affordability than we're hearing fromff. Does staff see validity in the concerns we're hearing from the neighbors about affordability? >>I think -- I think that there is some validity to that. We weren't really looking at that economic argument and didn't really find any -- the data is limited. So what we were looking at was what we could find some analysis on. >> Riley: And what analysis did you find? >> Just with regard to the issue of when you decrease occupancy, that it can increase your occupancy rate, and we already have a relatively high occupancy rate in the city. So in the case of, for example, fort collins, their study did show that when they decreased their occupancy, it did increase their occupancy rates, and if you're already at 97 or 98% and you -- and your occupancy rate rises to 99% or 100%, that you are going to see an increase in your -- in rents. >> Riley: Does your analysis take into account any different possibilities with respect to grandfathering?

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>> No, we didn't -- >> riley: So you haven't looked at the impact of any particular approach to grandfathering on affordability? >> Not yet. >> Other than if the ability to maintain existing, so if folks have the ability to grandfather properties in, then that would not decrease. It's only properties coming forward where there would only be the ability to have two per side versus the three per side. So that's where we felt the impact was going forward, so we see grandfathering as a positive, as a positive policy because things that are in place right now would remain. And we did look at this in

terms of unrelated versus -- the impact would be on unrelated individuals. >> Riley: And so -- >> as opposed to the single-family where they're going to be renting to, most likely, related single-family. >> Riley: And so to the extent that we aim towards any particular expiration date for existing properties, in a sunsetting for grandfathering, then you would see some affordability impact there, I take it? >> That would be positive. >> Yeah. >> Positive. >> Riley: Okay. I understand. Thanks. >> Mayor leffingwell: Council member tovo and then spelman. >> Tovo: I have a couple follow-ups on the affordability impact statement as well. I want to verify. I think I heard you say seattle was one of the case examples that you looked at? >> No -- >> tovo: Or di -- council member riley was ask you where -- where the examples -- were there examples that you looked at of cities that changed their occupancy rate and had an impact and that at least correlated with increased rent -- increased, what do you call it, occupancy rates across t city? >> Yes, and primarily we were looking at fort collins. That was the example we were -- >> tovo: I'm sorry, you said fort collins? >> Fort collins, colorado. That was one of the reports that we were looking at. >> Mayor leffingwell: It's a college town too, right?

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>> Yes. >> Tovo: Would it be possible for to you share that report with us? >> Yes, mm-hmm. >> Tovo: I would like to determine whether there were other factors going on as well at that time. And I guess for me this raised a question too. I mean, I very much appreciate the comments that council member riley raised, and also the ones that we've heard from the community who have supplied us with very concrete examples looking at what, you know, very particular properties rented for before and then when they were demolished and a new structure was there, what those final rents are, and I think it's very hard to argue that those new units became more affordable, just it -- the facts -- that the facts justify that argument. But for me this also raised a question about -- not to bring up another controversial and sore subject, but I'm really interested in revisiting how our occupancy rates citywide for rental properties have changed since we implemented sgr policies. We had a discuion and I'm trying to remember what our affordable statement said at that time. And I believe -- I was just trying to find it on-line. I thought it said -- indicated that there was not an anticipated impact on affordability. Mr. Council member

morrison, would you remind me -- >> morrison: I do have it because I was interested in that juxtaposition also, and it did say no impact, and it said that additional data would be required to analyze the -- to assess if current activity is impacting the sale and purchase of housing units at affordable price points. So occupancy was not addressed here, but I guess for me it brings up an issue of what kind of guidelines do we have and what issues do we address when we're looking at an affordability impact statement? Because it seems like we're not necessarily consistent, and I think that, you know, if we could have some consistency and if, for instance, we don't have the data, we don't have the data, we could see it, but at least we would know that

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we addressed it, because that does seem inconsistent to me, because the idea of taking 3% of your housing stock off the market would impact occupancy. >> Tovo: Yeah, I completely agree and those arguments were made at the time that we were replacing the opportunity for long-term rentals with short-term rentals and that that was going to contribute to people having a harder time finding rental properties within areas, really now occurring throughout our city but certainly in the central city. So I'm surprised by the difference in the analysis, because if this holds true, you know, that the occupancy rate across austin is impacted by the availability of, you know, low-cost rentals, then it would have to be true for us here too. I vaguely remember that one of our short-term rental resolutions did ask for an update on various things, and I would add to that I would also like to see how our city-wide rental property occupancy rate has changed in the years that we've --4in the couple years that we've had the sgr provision. >> Spelman: I think it's a very good question. I think, though, there's a common sense reading of both of those two affordability impact statements, which causes them to -- well, at first blush at least I can see why they would end up being different, given we're talking about two separate markets. Do we have a sense for what kind of market the occupancy limit would be putting a crimp on? Who -- who occupies six to a house? What kind of prices are we talking about there? >> Prices? >> Spelman: Yeah. If I wanted to rent an apartment with five of my closest friends, what kind of a rent would I -- could I reasonably be expected to

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pay? >> Well, I think it depends on the location and the type of housing. I think when we're talking about -- what we're talking about is student housing, then you're talking about different rents than if you have one lease to a house and what the market bear, you know, based on location. So if I lease by the bedroom, I'm going to make more money than if I have one lease for a family. >> Spelman: There are -- I'm treading into waters I don't fully understand and maybe you could help me understand them. Is there a way that I could lease a house and then bring in my five closest friends as co-lessees and still pay the price of renting the house as a house without having to be rented by the bedroom? That's done sometimes, isn't it? >> I suppose you could do that, yes. >> Mayor Jeffingwell: I >> I think it depends on your lease, what your lease says, whether you can do that or not. >> Spelman: So there are some guys who lease by the bedroom and they're leasing the bedrooms at 750 or 800 bucks a bedroom or whatever the going rate is. Some people are just leasing out their house and six people are occupying the house and probably the six people occupying the house with that kind of a lease are probably paying less per room than the guy who is renting out bedroom after bedroom. We don't have a real clear sense for what kind of markets we're dealing with, what kind of prices per bedroom or per house we're dealing with, do we? >> If I could, that's one of the challenges in these PARTICULAR AISs, IS THAT We don't have very good data on single individuals and how they're renting. >> Spelman: Right. >> So a general comment to the difference between these short-term rental ais and this particular one, on the short-term rental we didn't have specific evidence that low income folks were, in fact -- that the housing

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that they were potentially going to rent from were the same structures folks were renting out for rental opportunity. We didn't have that. Anecdotally what we do have for this particular ordinance, if you've ever worked with homeless programs, if you've ever had disaster issues, what we often find is folks do double up and triple up, but we don't have data that supports it. No one is really asking those questions. So some of that is anecdotal, but we do anecdotally know that many low income

folks do, in fact, double up and triple up because that's all they can do, and there's no place for us currently to collect that data. So it is a very difficult data conversation for us to have in these analyses. >> Spelman: It used to be the census asked that information. It showed up in the '30s and '40s you used to -- as an indicator of poverty, but does it still show up in census data? Could we ask mr. Robinson to go back and identify for us by census tract or something like that? >> I don't think it's real reliable in terms of how people are reporting. >> Spelman: Okay. The fort collins folks had information on how many people were occupying houses, but they ended up having to do that by survey, isn't that right? >> I believe so. >> I think so, yes. >> And we haven't done that survey. It would be expensive and complicated for us. It might be a good idea if we haven't had a chance to do it yet. Okay. Last -- let me change the subject slightly because -- affordability impact statement. I'm looking at the statement and I see the last consideration you've got here is disparate impact, and you're saying it could have a disparate impact on moderate low-income residents. This is not just students \$800 a bedroom, this could be people crammed into a house because that's all they can afford to do. And your analysis of poverty data says this most likely

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includes african-american, hispanic, spanish speakers and foreign born noncitizens. Is there a legal issue here or is this just -- it's probably a good idea not to have that kind of a disparate impact? >> No, it's -- it's just a policy statement, concern. >> Spelman: I beg your pardon? >> We got a legal memo. >> Spelman: I haven't seen it yet. The general -- this is the last point. I did have a chance -- thank you for sending over the fort collins, colorado stuff. You ought to take a look at it. One of the reasons for -- as I understand, and I'll see if I can paraphrase what you're going to find when you read it, is there was a lot going on in fort collins, colorado during the three-year period before and after the u plus 2 was implemented, but best they could tell a substantial portion of the reduction in vacancy rates was due to the u plus 2 program and they parceled it out to being about one-fifth of the total change. Does that square with your reading of that? >> Mm-hmm. >> Spelman: So it was not the whole thing. There was a lot of other things going on in fort collins as they were in colorado and colorado state at that time but that was a substantial enough piece they felt they

could identify the contribution of u plus 2 to the vacancy rate issue, and there's extremely good information suggesting that as the vacancy rate goes down the prices go up. This is elementary, supply and demand theory, and we've known about this for a couple hundred years. That part is pretty well-known, the extension as to what effect this occupancy limit ordinance would have on the vacancy rate is at issue, and of course that's going to be affected dramatically by whatever grandfathering costs we put in place. >> Cole: Mayor? >> Mayor pro tem. >> Cole: I just want to follow up on the affordability discussing and weigh -- discussion and

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weigh in. I think that we haven't discussed enough the differences in particular markets throughout the city, and we're considering an ordinance citywide that has a particular impact on the portion of town that is housing university students. And so when you look at that area of town, you are seeing demolition and a rise in price. And so that is causing -- hurting affordability. But when you look at it citywide and you reduce the occupancy levels, then that would reduce affordability. So I think that's partly where the disparate impact statement is coming from and that we need to be concerned about that. I don't know if any of the other cities have considered pilot programs or applied the occupancy limits in a certain area of town, but I would like to know any thoughts you guys have on that. >> I'm not aware of any cities that they've done it by location only. I can appreciate that scug suggestion for it to be -- if there's a particular issue in a particular area, but I'm not aware if cities have done that. >> Cole: Because I think in some of the areas in the city of austin that aren't -- not necessarily even in the central city but just aren't around the university area, and in particular the university of texas area, that when we reduce occupancy levels we are hurting a significant portion of the population that simply can't afford to live in a situation where even they are unrelated, they're doubling up to

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reduce their rent level. And I'm somewhat -- I am uncomfortable with that, because I think we could narrowly tailor the issue, and it's not going to be fully reconciled just by grandfathering. So I would like some of my colleagues' comments on that. >>

Spelman: Mayor? >> Mayor leffingwell: Council member spelman. >> Spelman: Preparation for my class yesterday I took a look at the north field neighborhood association's policy statement on -- what are we calling these things, stealth dorms, and their argument was their ask was not that there be a citywide policy but that individual neighborhoods or neighborhood contact teams be able 206 the authority to move from okancy limit from occupancy limit from six to four at their own discretion, opt in, opt out. That seemed like a reasonable discussion starting point for exactly that issue. >> Mayor leffingwell: I believe council member riley is next. >> Riley: If I could chime in on that one issue. I have considered that possibility as well, because we have heard that suggestion, and one thing I've heard from staff and others is that there are real concerns about -- about adding a level of complexity to the code and winding up with a patchwork of different regulations in different areas that creates real issues from a code compliance standpoint. And one other alternative that I've been looking at is the possibility of using some geographic boundary similar to what we did with the McMansion, and when you start thinking about that you realize there actually -- there are some common themes here, because the McMansion ordinance, like the ordinance that we're talking about today, was a -- was a response to development pressures that we were seeing. And the council -- in the

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council's judgment, those pressures had a -- had a particular geographic focus that warranted a different set of rules in some area around the city center than we apply elsewhere. And it seems to me the same line of reasoning could be applied to the problem here, which is really a matter of addressing development pressures. And then when I look at the map that we used, the boundary that we use for McMansion, it actually seems to fit very well with the concerns we've been hearing. One -- a number of different neighborhoods have spoken up about this, and it's really not just the university of texas area. There are other areas. I know yesterday I met with a representative from the coronado hills neighborhood, which is just east of cameron road, between 290 and 183, kind of in the regan -- north of regan high school. And it was interesting to see because they are experiencing issues with -- with occupancy, and that was right at the edge of the McMansion area. That actually is within the

McMansion boundaries. And so I just wanted to put that out there as one option to consider, is that we use the exact same geographic area that we used with the McMansion ordinance. So that -- to the extent that that adds complexity to the code, at least it's complexity that's already there for purposes of McMansion, so that might mitigate the impacts on compliance because people understand that there are somewhat different rules on development in that area than apply elsewhere. >> Mayor leffingwell: Yeah, I think that's one thing to establish boundaries, but it's quite another thing to see -- to give legislative authority to a neighborhood contact team. I don't think that -- first of all, I'd question the legality of that, and I would certainly question the prunes of it. Council member morrison? >> Morrison: Yeah, just to follow up on a couple of things. We did do that with the --

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we didn't give legislative authority. We got recommendations and then the council adopted a -- can I just say, that was a very arduous process and I would go into it only with great hesitation, same kind of thing, again. >> I'll second that. [Laughter] >> morrison: So -- I was part of making that up, and so was council member riley, actually,. [Laughter] , along with brewster. I did want to mention two things about the McMansion issue. One, I've been thinking back to that now because the occupancy limits were on the table during the McMansion task force discussion, and so it was absolutely tied to this. But at that point it wasn't thought -- well, actually at that point it was like well, we can deal with this in other ways but guess what, it's now eight years later and northfield and many other neighborhoods are still losing housing stock due to this and having real trouble. So just to say that absolutely it was tied to it, and then secondly to note that one of the concerns was back then, and even with this, would be that the -- the -- if you put it within boundaries, if you limit McMansion or something else within boundaries, it might sort of cause a domino pressure on the outer edges and we foresaw that in the -- the council foresaw that in the ordinance they adopted, and that was the -- the thought was built into it that we could expand the boundaries and actually for McMansion we did that one time. It only went to ben white and the southwest neighborhoods started experiencing a lot of pressure, and so the council adopted expansion of the boundaries. So I'm glad to hear that coronado hills is within the boundaries. So is allandale, because some of

the folks we talked with, I'm sure you're talking with the same ones, have talked about that. >> Mayor leffingwell: We've reached the hour of 12:00 noon. Is there an interest in continuing? I know some of us may have to leave.

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>> [Inaudible] >> mayor leffingwell: Just one thing? >> Morrison: Just one thing. I just want to bring up, it was a question that was raised, and that is, is there a limit in the code on the number of bedrooms right now for duplexes? And I found that in 25-2-555 in single -- and sf-3, a duplex can't have more than six bedrooms, and if staff could just get back to us on whether that was added during the super duplex discussion. >> We'll look into that. That is relative to the staff recommendation on duplexes as well which I can get into on thursday but it's different than the planning commission recommendation. >> Tovo: I have a couple very quick questions. So I know that when we forwarded the resolution to planning commission, we even had dialogue at the council about this very issue of whether it should be a neighborhood planning team tool or whether it should apply citywide, and we specifically asked the planning commission to look at and address that recommendation. I think it was actually your amendment to the resolution, and you and I worked on some language and what not, it made it into the final resolution. So I'd like to hear maybe on thursday why the planning commission believed it should apply citywide, what was their rationale and their dialogue. I missed that point in their hearing. But I do want - I do want assurance on one point, and I've gone back and forth with staff about this and with city legal staff about this. We do have areas of our city where we know -- where we -- I'll say ryan robinson, has told me and others, where families are sharing apartments to -- two, sometimes three families might be sharing a living space, and, you know, I'm very concerned that if we apply this citywide, that it not impact those families, and it's my understanding that based on the way our code is written, that children would be related to

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their parents, and so that would not trigger a situation. If you had two families, even if they had a number of children, that that would not trigger occupancy limits. So I

wonder, if you are not prepared to comment on it now, if you would get back to us on thursday. We don't want to do anything -- I don't want to do anything that's going to make it more difficult for those families to -- >> council member, we'll -- -- >> have a roof over their heads. >> That issue is also addressed in the memo relating to the previous issue. We'll be prepared to discuss it on thursday but you'll see that in the memo as well. >> Tovo: Great. Thank you. But the upshot is -- should not impact those families. And I guess in answer to the request he that mayor pro tem cole asked earlier about what kind of data we have, it would be an interesting thing, I think, to ask ryan robinson what sort of data he has about that, because he's -- he's shown before maybe some areas of the city where that appears to be happening, and I don't know how he measures that, but I think it's based to some extent on the schools and their student population and the fact that there's not been new housing on the ground, but the student population is really exploding so they can trace that. But it's a very interesting -- it's a very interesting body of research, and I think we would be well-served to have an update from him about that. >> Mayor leffingwell: Okay. To be continued. And that completes the items that were pulled by council members for discussion. Without objection we're adjourned at 12:03 p.M.