

City Council Regular Meeting Transcript – 11/10/2016

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[10:15:22 AM]

All right, council, let's go ahead. I'm going to call to order today's meeting. It is Thursday, November 10th, 2016. We're in the Austin city council chambers, 301 west second street here in Austin, Texas. It's 10:15. Let's take a look at the agenda and see where we are. We also have some changes and corrections. Item number 21 will not be called earlier than 11 o'clock this morning. That's the Moreland annexation. Let's see how close we have being able to do that. We have some items that are being pulled off the consent agenda. Item number 2 is being pulled by Houston and Garza. Item number 6 is being pulled to be joined with item number 43, and that will be heard no sooner than 1:00 P.M. Item number 8 is associated with item number 32 so that will be considered -- those things will be pulled and considered together. And then councilmember troxclair, welcome back to the dais.

>> Troxclair: Thank you.

[Applause]

>> Mayor Adler: Is pulling item number 7.

[10:17:24 AM]

Now, item number 12, we have speakers to speak on that, but I think that was some -- we were also talking about just postponing. Is staff here on that? Small cell? We have two items on this. We have contract 11 which needs to be approved today. We have item number 12, there's been a request, some people have asked to postpone that.

>> Yes, sir, that's true. Robert spillar, transportation department. Item 11 is an item from purchasing, it relates to an extension or new contract for the contractor, the experts have been assisting us. Item 12 is the fees, and we understand --

>> Mayor Adler: Are you okay with that being pulled --

>> For work session discussion.

>> Mayor Adler: Are you fine with that?

>> Yes.

>> Mayor Adler: Okay. So would that get postponed to a date certain?

>> That would be my recommendation, in the purpose -- so that we can keep up with the schedule that the private providers would like to have.

>> Mayor Adler: Okay.

>> I would suggest a meeting to bring back to --

>> Mayor Adler: December 1st, I'm not here, and I think several others are going to be in Mexico.

December 8th would be the meeting that we're all back. Does that work?

>> Yes, sir.

>> Mayor Adler: Okay. So item number 12 would be postponed until December 8th. We have three people to speak on that. Melissa malarkey and Josh Summers. If that's being postponed till December 8th, do you want to speak on it today? Are they here? Is Melissa malarkey here? Do you want to speak on this if it's being postponed till the 8th? How about Josh Summers? Wait? Okay. So they stay on the schedule with item number 12 being postponed till 12/8 so we can come up with a work session for council prior to that if it's needed.

[10:19:33 AM]

So the items I have being pulled here, consent is items 1 through 18, also number -- item number 16 being pulled. So the items I have being pulled are 2, 6, 7, 8, and 16. Any other items to pull? Ms. Houston? Did you have a quick question on one of them?

>> Houston: I have a quick question, mayor, on item number 3.

>> Mayor Adler: Okay.

>> Houston: And the question is to staff. Who is the point of contact for the city?

>> Good morning, mayor and council, Kevin Johns, director of economic development. Dusty McCormack is the contact for the city.

>> Mayor Adler: Okay. Thank you.

>> Houston: Thank you. That's it.

>> Mayor Adler: Let's go to some of the speakers that we have to speak on the consent agenda. Yes. First, mayor pro tem?

>> Tovo: Mayor, who pulled 16?

>> Mayor Adler: I did.

>> Tovo: Okay.

>> Mayor Adler: Ms. Kitchen?

>> Kitchen: Just quickly, I hope I'm not taking this out of order, I just wanted to establish time certain for item number 46 at 4 o'clock so people would know. That's the Thornton road one.

>> Mayor Adler: There's been a request on item number --

>> Kitchen: 46.

>> Mayor Adler: 46 so Thornton for a 4 o'clock time certain. Okay. We'll go ahead and do that. Ms. Gallo?

>> Gallo: I just wanted to -- I know 6 has been pulled, but there was a request for a time certain of 1:00, but my understanding, that the applicant is only available between 1:00 and 3:00, that he would definitely be available at 4:00, so if the council can commit to hear that very close to 1:00, we can leave it at 1:00, but it needs to not be very much after 1:00 that we hear it.

[10:21:46 AM]

Or we can make it time certain at 4:00.

>> Mayor Adler: Okay. So the 1 o'clock says that we won't hear it any sooner than 1 o'clock?

>> Gallo: That's correct.

>> Mayor Adler: And if there's a speaker that needs to speak on that and we don't get to call it at 1:00, we'll just carry it --

>> Gallo: So it's the applicant that would have an issue of being here at 3:00 if it's not heard until 3:00. So we can't hear it before 1:00 for time certain 1:00, but if council is addressing other agenda items and it's after 1:00 and it's after 3:00 before we hear it, the applicant is not available until 4:00. So the applicant is not available between 3:00 and 4:00.

>> Mayor Adler: Got it. We will not hear that item between 3:00 and 4:00 today.

>> Gallo: Perfect. Thank you.

>> Mayor Adler: Okay. Yes, Ms. Troxclair.

>> Troxclair: I just pulled item 7 to make a quick comment. I know that this council had gone from kind of bimonthly meetings to adding additional meetings in an effort to make our council meetings less lengthy. And hopefully -- I don't know that we accomplished that goal this year, but if we're going to continue to have additional -- more meetings in the council every month, I think we can work on that next year and try to get out of here before -- you know, at a reasonable time and certainly before 10:00 so we're not constantly asking staff and citizens to stay so late.

>> Mayor Adler: I agree with that. Yes.

>> Renteria: I know there was a request on item 36 and 37, Lenox oak to be time certain at 6:00. But there's a possibility that we might not go that late, I hope. But if it -- do we know if we could put it -- when do you think that we might be able to get to that?

>> Mayor Adler: Well, as we look at this and I look at the agenda, I'm not sure that this is an agenda that runs very late tonight, depending on how we handle the grove. If we're going to put that off, I'm not sure we go that late.

[10:23:53 AM]

>> Renteria: Okay. Thank you.

>> Kitchen: Could I go back to item 7 that councilmember troxclair pulled?

>> Mayor Adler: Yes.

>> Kitchen: We had talked a couple of times of reverting to conventional way of handling zoning so I just want to confirm that we have shifted that for 2017 so that we will have regular council meetings and can have zoning on any week.

>> Mayor Adler: Okay. That's my understanding. Jerry, is that yours as well, that we're not doing regular zoning designated meetings?

>> Correct. We're spreading them out over every meeting now.

>> Pool: Thanks. Then we can confirm that publicly for everyone. Thank you so much.

>> Mayor Adler: Okay. So, do we need -- are we needing to pull 7 now that you made your comments? Ms. Troxclair? No. 7 is not pulled. Mayor pro tem, then Mr. Zimmerman.

>> Tovo: Mayor, it's my understanding that staff are poised to read into the record some slight amendments to item 10, the concrete pouring ordinance, and so I don't know if that's necessary to pull or just to do it after the speakers on the consent agenda, but my guess is, we should do that. Otherwise, we will have speakers likely on that item.

>> Mayor Adler: Should we read those amendments in before we go to speakers? Is that what you're suggesting?

>> Tovo: I guess that would be my preference, in case the staff haven't captured some of the feedback, then they have an opportunity to let us know.

>> Mayor Adler: Okay. Let's do that then. Staff, can you tell us what the amendments are on item number 10?

>> With pleasure, mayor. Greg Guernsey, planning and zoning. On the ordinance on page 2 of 5, at the top of the page for the type 1 permit, under B, the decibel level has been lowered from 85 to 83 for a type 1 permit. That's between 7:00 P.M. And midnight. And then noted that it's unless further restricted by the sound management plan.

[10:25:55 AM]

On that same page, for b2, the type 2, non-peak hour permit, to change number 80 down to 78 and just noting again, unless it's further restricted by the sound management plan. And then at the bottom, after b5, to note that the sound data provided by the sound monitoring equipment, and the neighbors understand this to be sentinel equipment, will be available to the public in realtime if possible.

Sometimes there's some logistic problems. The last change is on 3 of 5, under section e1b, and this is a notice that goes to property owners and residents, so that would go from 300 feet to 600 feet. And as I understand it, the industry, the downtown associations, Dana and downtown Austin alliance property owners associations, are in agreement with those changes.

>> Mayor Adler: Okay. So those changes -- those changes, without objection, are now part of the consent item. Yes.

>> Renteria: I have a question.

>> Mayor Adler: Mr. Guernsey.

>> Renteria: Guernsey. How are you going to determine the 75 feet? Is there a standard where you're going to measure from that?

>> Well, the sound is actually enforced by our police department, and they have monitoring equipment, so they would go at distances 75 feet from a sound source. Whether that's like the concrete pump, it's usually the item that makes the most noise, and so they would go out that 75-foot distance and take the readings at that point. If there is a violation that they see, then we will place the sound monitoring equipment, sometimes known as the sentinels out to verify if there is a violation.

[10:28:05 AM]

>> Mayor Adler: Okay. Thank you. Yes. Joe.

>> Gallo: I'm sorry, I should have mentioned this, and welcome back, was talking about 7. This year, there's actually two Thursdays that are impacted by spring break in March. We've pulled the one for the 16th, but the 9th, and this year we actually did not have meetings for both of those two weeks, so I don't know if the council wants to establish kind of the same thing that we did this year for next year, because there are -- there are two different weeks that -- that spring break happens over.

>> Mayor Adler: Okay. Let's hold that thought, so we can make a motion to change that or to pull that, or we could set it up this way and come back to do that if people wanted to think about it and look at it. Any of those things would be possible. All right. We have some speakers -- Mr. Zimmerman?

>> Zimmerman: Just pint of information there on item 7, it looked like we had a meeting for the November election date of November 7th. There was a work session planned, but that'll be constitutional amendments, probably; right? The election on November 7th of next year? Constitutional amendments?

>> Mayor Adler: If that -- if that happens.

>> Pool: Yeah. But I think -- isn't the 7th a first week and the election is on the second Tuesday, not the first Tuesday?

>> Zimmerman: Well, I just looked it up. According to the Texas secretary of state there's going to be an election November 7th if they have constitutional amendments.

>> Mayor Adler: Okay.

>> Zimmerman: There's not going to be any councilmembers running, but there still is an election and maybe somebody wants to participate, so ...

>> Mayor Adler: Okay. Thank you. The other thing I would point out is that we have a luncheon today for city employees that are veterans. This is obviously veterans day week. We have some veterans, including the mayor of south Austin here with us, today here in chamber.

[10:30:12 AM]

Thank you for your service, gentlemen. But at 11:20, I'm going to be leaving, together with some of the other councilmembers, to go run over to that lunch, and we'll be back in time for the noon citizen communication period. When we get close to that point, the council may want to take a break, from 11:20 to noon, or you can soldier on without us. Ms. Kitchen.

>> Kitchen: I didn't realize that it was 11:20. We have Moreland at 11:00 so maybe we could start Moreland very soon, then we could deal with that? I don't think it'll take a long time, but I think it's going to take a little bit of time.

>> Mayor Adler: Okay. I don't mind not -- I mean not setting a time certain for that and calling it the first opportunity we can. We have consent speakers here. We're going to call them, then we can finish this item, then we're going to have the consent zoning matters so we can take care of those, and then we can come back.

>> Pool: Okay.

>> Mayor Adler: If you want me to get started with the speakers, Ms. Pool?

>> Pool: Quick question about this evening I'm looking at my calendar. There is an event with waller creek conservancy this evening. I wonder if we'll be taking a dinner break this evening, and if so, about what time.

>> Mayor Adler: You know, hope springs eternal, but as I'm sitting here right now, if we can get started on this, I don't think we're going to be going that long because I just don't see the items that would have us being here late.

>> Pool: Great. I may need to step away if we are.

>> Mayor Adler: Okay. Thank you. The other thing I would point out is that on that calendar, number 17, there is a stray work session on September 10th -- I'm sorry, September 19th of 2017. There's no associated council meeting, so that was an error. So that work session scheduled for September 19th, 2017, should be pulled off.

[10:32:14 AM]

Okay. Now I'm going to call the members of the public to speak on the consent agenda. Mr. Peña, you can speak first. And civil, sir, again, thank you for your service.

>> Thank you, Mr. Mayor, thank you for recognizing the veterans. I didn't see the color guard this morning. Or was I late? No color guard? Shame on y'all.

>> Mayor Adler: We've sent them over to the lunch we're having with all the cities.

>> I knew there was one thing I didn't like about you when I supported you. Mayor, councilmembers, I'm Gus Peña, proud native east austinite, proud United States Marine Corps veteran. First and foremost, Mr. Mayor, if you'd allow me, I would like to have any United States marine Corps veterans stand up, please, sir. Stand up. Today --

[applause] For you non-marine corps veterans, today is the 241st United States Marine Corps birthday. We were born November 10th, 1775. I'm proud of it. There are others in the world but the best one is the United States Marine Corps. God bless America, and had thank you very much, Mr. Mayor. Did you mention item number 4, mayor?

>> Mayor Adler: Yes. That's what I had you signed up on.

>> Okay. Item number 4 is having to do with the Rundberg area and the Latino health care forum. Now, specifically what I wanted to address is, we're all in favor of this. Number one. Number two, the crime. Sure, crime has subsided slowly and locally with the help of the community, and of course A.P.D. And other law enforcement agencies. We controlled that area in 1992 when Bruce Todd was mayor, and I think if y'all remember, that's still a hotly contested area for the organized crime and law enforcement.

[10:34:17 AM]

Law enforcement is winning. But I understand they lost some funding. We would like to see any more funding go to the rundberg area, simply dove springs area, and my area in central and east Austin, but they need a lot of help. We can't cut off the funding. We need to fight organizationed crime. They're doing a good job, law enforcement. I've had fiber, ATF there, I have friends that I knew their dads when they were federal investigators. I was with the irs also. But we cannot let up our guard on organized crime. I know they're listening to me right new. I know they're following me. I don't care if they get me -- I'll be out there in the hoodlums area. The issue is this, Mr. Mayor, please, please, if anything that you listen to me -- ever listen to what I have to say is, do it for the kids also. Some of the kids are highly motivated by the money, the Jing, they call it out there, that some of these hoodlums have out there that are enticing them into cream. We can't allow that to happen. A child needs education. A safe place. So any kind of more funding that we can support rundberg with, just like my central/east Austin, we're in support of, and also veterans progress. And I would leave it at that, Mr. Mayor. I want to thank every one of y'all for your hard work.

[Buzzer sounding] I was going to mention number 8, but I won't. United States Marine Corps, happy birthday, and god mess America, god bless our united States Marine Corps and our veterans. Thank you very much.

>> Mayor Adler: Thank you. David king. Mr. King, I had you on at least number 3 and number 16. 16 has been pulled, so 3.

>> Thank you, mayor, mayor pro tem and councilmembers. My name is David king, and I'm speaking as rant of the zilker neighborhood. On item number 3, regarding the refund of \$1.25 million in sales taxes and use taxes for Samsung.

[10:36:17 AM]

And, you know, the way I read this proposal here is that there's no guarantee that they'll create any new jobs from this. No new jobs are required for them to get \$1.25 million in taxes refunded to them. Those taxes, yes, they go to the state, but the state uses those taxes to help fund services that we need in our state. So you can't say that waiving those sales taxes are not going to hurt Austin somehow, that we're not going to be impacted by that even though that's the inference made for the backup for this project here, this proposal. It is going to leave less money. And we will be impacted by that. So what I wonder is why are we going to do this with no requirement that new jobs be created? I think that's important, if we're going to tell them that they can get \$1.25 million in taxes refunded back to them, that they create new jobs for that. And the other thing is that we know that -- I guarantee you that the \$324 million in infrastructure that they're going to build out there, when you go look at the surprised value at cat, the Travis central appraisal district it won't be on the books for that it'll be appraised much less than that. They claim on the one hand we're investing \$324 million of new infrastructure that will go on the property tax rolls and we'll benefit from the taxes generated from that, but they play this game. On the front end, they say we're going to make this big investment, but when you go look at the property tax appraisal for that investment, it's much lower. So they gain the system that way. And I think that we need to consider that on the front end when we're looking at these projects and these sales tax refunds for these kinds of projects. And we all know that especially these factories and industry tie instructions, that they -- their appraised value is much lower. The commercial properties -- we know that.

[10:38:18 AM]

That's a common practice. They get their appraised value reduced significantly, 30, 40, 50%, and we lose there again. So I just ask that we take a closer look at the fiscal impact on this. This is not really a good fiscal impact statement for this proposal. So I'd ask that we do better fiscal impact statements and be more realistic about what those impacts are going to be and at minimum require them to create jobs from this. Thank you very much.

>> Mayor Adler: Thank you. Next speaker is Julie Fitch. Passing? Then Phu Huynh. Tom woods.

>> Mayor, mayor pro tem, and councilmembers, Tom woods. The beck group construction. Just on item 10, we've been at this now for two years. We're worked hard on it. We've gone back and forth. I think we now have held hands with the residents. We're singing kumbaya, and we agree with the staff recommendations as amended today. Thank you.

>> Mayor Adler: Thank you. Yes. Mayor pro tem.

>> Tovo: I just wanted to thank everybody who has been involved in that. That really has been a very long process and I appreciate all the stakeholders who worked hard to bring it to this resolution today, and our staff.

>> Mayor Adler: Okay. I think those were all the speakers that I had signed up to speak on the consent agenda.

[10:40:23 AM]

Again, I think we're pulling items 2, 6, 8 and 16. Any further discussion on the consent agenda? Ms. Gallo.

>> Gallo: Mayor, I would like to pull 7 so I'm going to make a motion to exclude March 9th. I think particularly for our city staff, knowing this far in advance that that's not going to be a council meeting would be helpful in their spring break plans.

>> Mayor Adler: Okay.

>> Gallo: So I'd like us to go on and determine that.

>> Mayor Adler: There any objection to removing March -- what was the date? March 9th, any objection to pulling March 9th off of the calendar?

>> Gallo: And the work session on 7th.

>> Mayor Adler: And the associated work session. With that, no objection to that, we're going to pull off that work session and that meeting March 7th and 9th respectively. And the March 8th budget work session. Okay. That now is made part of the consent agenda. Any further discussion on the consent agenda? Is there a motion to improve the consent agenda? Mr. Renteria, seconded by Ms. Pool. Those in favor of moving -- yes, Ms. Troxclair.

>> Troxclair: I just wanted to be shown abstaining from items number 3, 4, 11, 15, and 17, and I'm voting no on item number 5. Thanks.

>> Mayor Adler: Okay. Mr. Zimmerman thank you, Mr. Mayor. I'm voting for the consent agenda with exceptions of item 3, 4, and 5 against, and the rest in favor.

>> Mayor Adler: Okay. Further discussion on the consent agenda? Those in favor of the consent agenda, please raise your hand. Those opposed? It's everyone on the dais. Everyone is here today. All right. What about the zoning consent? Can we take care of some of those things?

[10:42:24 AM]

>> Thank you, mayor and council. I'll go through the -- Greg Guernsey, planning and zoning department. I can go through items I can offer for consent, item 24, case npa 20160010.02, for property at 622 pedernales street. We have a staff postponement of this item to your December 8th meeting. Item 25, case c14-2016-0041, property located at 2416 east 6th street, staff postponement to December 8th.

Item 26, c14-2016-0043, staff postponement of this item to your December 8th. Item 27, case npa 20160025.01, for various properties in rialto boulevard, staff postponement of this item till December 8th. Item 28, case c14-2016-0011, for various properties on rialto boyfriend will, postpone this item to December 8th. 29, npa 20160016.03, approved in second and third readings for neighborhood plan amendment at 6011 balm road to mixed land use, ready for approval for second and third readings. Item 30, case c14-2016-0082, for property located on bolm road, this is ready for consent approval on second and third readings. Item 31 is case c14-2016-0037, for various properties on Scofield ridge parkway. This is ready for consent approval for second and third reading to grmu co zoning. Item 8 I believe is discussion, related to pilot knob. Item 33 is case c14 85288.8, rca 3, for restricted government amendment at rialto boulevard.

[10:44:34 AM]

Staff is requesting postponement of this item to December 8th. Item number 34, case npa 20160015.03, for two properties on Heflin lane. This case has been withdrawn. No action is required on item number 34. And item number 35 is case c14-2016-0114 for those same two properties on Heflin lane. This case has been withdrawn. No action is required on item 35. Item 36 and 37, I'll introduce these and then Jerry rusthoven of my staff has a quick announcement regarding these two cases. Item number 36 is case npa 20160005.04, Lenox oaks, for various properties on poncha street and bastrop high southbound. That's the amendment related to zoning case, item 37, c14-2016-0104, again for various properties on bastrop highway and ponca street. At this time I'll introduce Mr. Rusthoven to speak to these two items.

>> Jerry rusthoven, planning and zoning property. I've been discussing with the applicant and they would like to address the road issue in a little more detail than I think you'd like to handle at the consent agenda so I think we should go ahead and pull those two items.

>> Mayor Adler: Okay. Which items are those?

>> 36 and 37.

>> Mayor Adler: Okay. They were also pulled for speakers. .

>> Item 38 is case npa 20160013.01, for various properties on south second street. The applicant is requested postponement of this item to your December 1st agenda. Related item, 39, case c14-2016-0077, for various properties on south second street and Christopher street. The applicant has requested postponement of this case to your December 1st agenda.

[10:46:37 AM]

Item 40, case npa 201-6021, property located at 5016 and one-half east Ben white, Mr. Requested postponement to December 8th agenda. 41, c14-2016-0069, property located at 5016 one 456 east Ben white boulevard, requested postponement to your December 8th agenda. Item 42, case c14-2015-0052, for property located at 507 west 23rd street. Planning commission recommended this for approval on first reading only. Item 43 I believe is a discussion item that involves the champion property. Number 44, c14 20th 0020, property located 7717 southwest parkway. Staff is requesting a postponement of this item to your December 15th agenda. Item number 45 is case c14-2016-0021, for the property located at 420 east fm 1626 road. Staff is requesting postponement of this item to your December 15th agenda. 46, c14-2016-0039 is a discussion item. Item number 47 is case c14-2016-050. These are for various properties on east fifth street. Staff is requesting a postponement of this item to December 15th. Item number 48 is case c14-2016-0049, for various properties on east fifth street. Staff is requesting a postponement of this item to your December 15th agenda. Item number 49 is case c14-2016-0051 for the property located at 413 navasota viet.

[10:48:37 AM]

Staff is requesting postponement of this item to your December 15th agenda. Item 50, case c14-2016-0063. Sh, for various properties on vin son drive. Staff is requesting postponement of this item to your December 15th agenda. Item number 51, case c14-2016-0065 for property located at 623 west 38th street. Staff is requesting a postponement of this item to your December 15th agenda. Item number 52 is case c14-2016-0068 for the property located at 1308 east breaker lane. Zoning and planning commission's recommendation was to grant zoning, ready for consent approval on all three readings.

>> I have a quick amendment to that one. The applicant in councilmember Houston's office have been working on an agreement that they would multifamily, residential use would be prohibited use understand a all of the uses along multifamily to district would be allowed.

>> Noting that notation, I believe that's clear enough that we could actually do that still on three readings. Item number 53, case c14-2016-0072, this is for the property located at 405-407 west 39th street. The planning and zoning recommendation was grand mf-4 nccd inspect, ready for consent and approval all three readings. 54, c14-2016-0078, for property located at 1114 Cramer lane, 11107 plains trail, and 11109 plains trail. This is -- the zoning and planning recommendation was to grant mf-3 co zoning on the property and this is ready for consent approval on all three readings, item number 54.

[10:50:39 AM]

Item number 55 is case c14-2016-0086 for the property located at 2004 east William cannon drive. We have a neighborhood request for postponement to December 15th. Item 56 is case c14-2016-0091 for the property located at 4001 south Lamar boulevard. The planning recommendation was to grant cs 1-v fco, ready for consent approval on first reading only, item that's item 56. Item number 57, case c14-2016-0095 for the property located at 9100 west highway 71. Planning commission's recommendation was to grant gomn zoning. This is ready for consent approval on all three readings. Item number 58, case c14-2016-0096 for property located at 7901 ranch to market 2222. Staff is requesting postponement of this item to your December 15th agenda. Item 59 is case c14-2016-0101 for property located Pearce road, grant sf 1co, and this is ready for consent approval on all three readings. Item number 60, case c14-2016-0102 for the property located at 3906 Pearce road. Zoning and planning commission's recommendation was to grant sf-1 co. Ready for consent and approval on all three readings. Item 61, case C 814-2012-0128.01. Sh for property located at 1141 shady lane, and 5300 Jain lane. The planning commission recommendation was to grant hud np zoning, this is ready for consent approval on all three readings.

[10:52:44 AM]

Item number 62, Chris case C 814-2014-0120, for various properties on executive center drive and wood hollow drive, known as the Austin oaks pud. I understand there's an agreement by the neighborhood to postpone this to December 15th. December 15th.

>> Mayor Adler: We have some speakers here to speak on that, and I would need to know if these speakers need to speak if this is being postponed to December 15th. Joyce status, do you need to speak if it's being postponed? Ben lawkins, are you okay not speaking? Is Ben here? What about Shannon Maroney? What about cuatro Bruce? What about David king? What about Brad parsons? You're waiting. Okay.

>> If I could add, parties in the become are both located with December 15th, however the neighborhood will be asking we do that the evening of the 15th, rather than the morning.

>> Mayor Adler: Okay.

>> That presentation us to item number 63, case C 814-2015-0074. I understand that council -- the mayor may want to address this particular item.

>> Mayor Adler: This is the grove matter?

>> This is the grove.

>> Mayor Adler: And we were going to set this per the board, message board, for a special called meeting on December 6th, which is the same day we have our work session.

>> Pool: Mayor?

>> Mayor Adler: Yes, Ms. Pool.

>> Pool: I posted on the message board yesterday in response to the option of December 5 or December 6 that the lead spokesman for the neighborhood is out of town on business on December 6 and 7, and the neighbors respectfully requested that we go with the December 5 date so that Mr. Cox could be available to present.

[10:54:51 AM]

I put that on the message board yesterday.

>> Mayor Adler: And I did see that. I'm sorry, I didn't address that. We can certainly open it up to the dais. My understanding is that some of the councilmembers can't be here on the 5th. And I was happy that we were all able to accommodate Mr. Cox with respect to his inability to be able to be here today, and that was one of the reasons why it got pushed from today. But my sense is, is that we need to go on a day when we have all the councilmembers here, which appears to be on December 6th. It's only going to be on second reading, so that there will still be opportunity, and certainly I think he's had and will have, and I hope he continues to have lots of continues to speak with us. But that was why I did see that and then went back. We start losing councilmembers when we go to the 5th. Yes, mayor pro tem.

>> Tovo: It's not clear to me at what point we're going to have a discussion about setting special called meetings. I assume we would need to amend our calendar to make those meetings, but if now is the time to talk about it, I just want to raise a concern about doing that. You know, one of the reasons that we're going to lose councilmembers on this day or that day is because we set our council schedule, you know, up to a year in advance, and adding special called meetings to take up one zoning case at the request of a developer because they want to finish on a certain timetable is just, in my opinion, rather unprecedented, and something that we will be asked to do again and again and again. One of the dates that's being contemplated is December 19th, as I understand. I think that's very close to the holidays. I think we've -- we've indicated to our staff through our adoption of a formal council schedule what days we plan to be here and what days we didn't, and I think it's really -- I think that's -- I think that's just not a path I would suggest we take, either on -- for one hearing or two meetings, but at the appropriate point I'm certainly going to probably have some more comments about it.

[10:56:51 AM]

But have the option, I hope, to vote against that.

>> Mayor Adler: We could pull that to have that discussion, or we could have the discussion right now. It looks as if having it on the 12/6 obviates a need to have it on 12-19, so I think the request today would be just to enable it to be called on the 6th, but it certainly wasn't just because of the developer's schedule, it was also the applicant's schedule and it was to accommodate the neighborhood's request that we not hear it today. So I think this is a unique case and a unique situation, but I certainly agree with you that this kind of thing should never happen lightly. Ms. Kitchen.

>> Kitchen: Oh, I was just going to suggest if people want to have a discussion, I think we should pull it and keep going through the consent.

>> Mayor Adler: Okay.

>> Kitchen: But I don't have a read whether people want a discussion or not.

>> Mayor Adler: Does anyone want to pull this item 63?

>> Tovo: Can you help me understand exactly what the proposal is? To set one special called meeting on the 6th?

>> Mayor Adler: One special called meeting on the 6th.

>> Tovo: I don't need to pull it to discuss. I think I've made my comments. I just think it's an unprecedented move. I'm certainly in support of postponing it, but not to a day when we don't have a scheduled meeting so I'm going to vote against that.

>> Mayor Adler: Yes, Ms. Pool?

>> Pool: I'll just was he in on that, too, I think if the lead spokesman of either side of a case is not available, that we would just natural respect that and pull it, and I also agree with mayor pro tem that we should not go down the road of having special meetings outside of the calendar that we've approved. I recognize that we've had a collision the past two months with big hud cases, especially zoning cases, because we originally scheduled to have all zoning one day a month. I'm really happy that we're changing that so hopefully this won't happen any further, but I think that while I will agree to the special case in December, although I would prefer it to be on the 5th, I will signal now that I won't be willing to have dispensations outside of our calendars going forward.

[10:59:13 AM]

>> Mayor Adler: Thank you. Yes, Ms. Garza?

>> Garza: I too think that this is

>> Garza: I understand the need to do it. I'm open to the sixth because we will be here anyway but I hope it is within the time frame that is not -- this case has been postponed and postponed and postponed, and we should have taken public comment weeks ago, and we should have done so much stuff that got pushed away, and special-called meetings are for emergencies. I think the only one we've done so far was because of the flood buyout and those homeowners needed some answers because of an emergency. So I hope we don't delay decisions like this through special-called meetings in the future.

>> Renteria: Mayor? I won't be able to make it on the fifth because I have capital metro board meeting.

>> Mayor Adler: So that's the consent agenda. The lord should reflect that mayor pro tem and councilmember pool voting no on the postponement on item number 63. Is there anyone else here to speak on the consent agenda? Mayor pro tem

>> Tovo: Mayor, apologies for not mentioning this earlier but 42 and 53 I believe are both on the consent agenda. I have very quick questions about both

>> Mayor Adler: Okay

>> Tovo: I guess that means I'll pull them or if there's an opportunity to ask quick questions of the applicant, that would be great

>> Mayor Adler: How long do you think it will take? Should we pull it?

>> Tovo: I would say probably three minutes and three minutes.

>> Mayor Adler: Let's go ahead and do that.

>> Mayor, can I ask very quickly, for the special-called that would take place on December 6, is there a suggested work time.

>> Mayor Adler: No sooner than 9:00 but we have a work session that day so as we get closer we'll need to figure that out.

[11:01:16 AM]

>> So item number 42? That was case c14-0150052 at 507 west 23rd street and some -- applicant is in the audience, I believe.

>> Mayor Adler: I think mayor pro tem had some questions.

>> Tovo: I do. If I could ask the staff to just put up a couple photographs that are relevant to why I'm asking this question. This is the case where we were asked to allow the applicant -- I think we had to lift a restrictive covenant and make other changes to allow for -- H -- anyway to make that large center maybe we'll go to the second one then. Thank you. Appreciate it. The dabner horn was a historic house. We were asked to allow it to be moved from this house and put on what is a smaller lot and today we're being asked to remove the historic zoning from the lot. Now, it's clearly appropriate to remove the historic zoning from the lot because there's no longer a house that's on it that is historic. So I understand that. But one of my concerns is that we're making this change before the work is completed on the other -- really on the house. As you see, you know, I received this from a member of the community who is concerned about the Dabney horn. Obviously things look bankrupted when in transition but it's been a while. I'm very disturbed by what I'm seeing, Mr. Mchone, and I'd like you to talk about when this project is gonna be completed and when we can expect this historic structure to be restored.

>> Mayor pro tem, members of council, mayor, my name is Mike Mchone, I'm here representing 507 west 23rd LLC, developers of the sky lot of. This property has been sold to Lincoln ventures and Lincoln ventures is actually in charge of the restoration and there's a very extensive restrictive covenant in place.

[11:03:19 AM]

They are proceeding with the -- putting the house and all the pieces back together. I did talk to this owner last night and this week, and he is in the process of restoring it. I don't know how old these photographs are, but they are not representative of what the situation is currently.

>> Tovo: They're from just -- I don't mean to intercept interrupt your testimony but since you asked that question it's October 25.

>> Right. Since that date they are in fact over there now putting the roof back on the building. The house has been -- they have hired Mr. James knoll LAN who is a -- Nolan, very well known restoration architect and builder in this city and from alover the country, from South Carolina, he's done several projects and working closely with city staff on making sure it's done correctly and properly and they're proceeding through the permitting process and through the getting it restored. The issue of the linkages between these two is somewhat tenuous in that we have two separate ownerships now and we have a situation where we have a historic zoning on a piece of property that's now a 45-foot hole in the ground under a initial site plan, preliminary site plan called a fast track. What we need to do is to get our final site plan approved for the sky lot at 507 west 23rd is to remove the H. This council and the staff have plenty ability to deal with anything that is not being done at the Dabney horn house through the restrictive covenants that mayor pro tem negotiated with Lincoln ventures when they purchased the property and agreed to move it. I'd be happy to answer any other questions, but they are moving and hope to have it finished by -- this will be a rental property and they will -- they are planning to have it finished and completely redone and rebuilt by the -- August move-in date for students in the fall semester of 2017.

[11:05:35 AM]

>> Tovo: Okay. Thanks. And I think my questions on the second one are also gonna be directed to you but I think my colleague has --

>> Mayor Adler: Mr. Zimmerman, questions on this one?
>> Zimmerman: I was gonna suggest we pull the items.
>> Kitchen: We have neighborhoods here if we're actually leaving at 11:20 I don't know if the neighbors can come back.
>> Mayor Adler: Okay. So your question has been answered so we don't need to pull item 42, and the question is do we pull 43 -- mayor pro tem wants to does him --
>> Tovo: Item 53.
>> Mayor Adler: Because the neighbor is gonna leave at 11:20. I think that's the problem. So we'll pull 53. I have us pulling items 32, 36, 37, 43, 46, and 53.
>> Pool: Mayor, I want to pull the one mayor pro tem was just asking questions of Mr. Mchone because I also have questions.
>> Mayor Adler: What was that number? 42. 42 is also pulled. Again consent is items 24-63. We're pulling 21, 32, 36, 47, 46, and 53. Is there a motion to approve the consent agenda.
>> Zimmerman: So moved.
>> Mayor Adler: Mr. Zimmerman moves. Is there a second? Ms. Houston seconds. Those in favor of approving the consent agenda.
>> Tovo: Mayor.
>> Mayor Adler: Yes.
>> Tovo: I am recused and have an affidavit on file on items 38 and 39.
>> Mayor Adler: Okay. Those in favor of the consent agenda please raise your hand. Those opposed. Unanimous on the dais with the notations earlier made. Thank you. I think there was a request while the neighbors are here, Ms. Kitchen, to make up item 21.

[11:07:37 AM]

>> Kitchen: I can lay it out quickly. This is item 29. It's an annexation issue.
>> Mayor Adler: 21?
>> Kitchen: 21, I'm sorry. This is item 21, annexation issue. I'm gonna make my motion and then explain my motion. Is that appropriate? Can I do that?
>> Mayor Adler: Yes.
>> Kitchen: I'm gonna move we postpone this annexation. By postponing this -- the effect of postponing this annexation means that we would not take it up until next year. Let me explain why I'm going to -- why I've made this motion. I'm moving to postpone in order to provide additional time for the people living in this neighborhood to adjust essentially to the potential to being annexed. The key issue is affordability. Our data is showing that with additional city taxes for a home valued at 200,000 they would pay an additional 900 a year, a home at 250,000 they'd be paying additional 1100 a year and for a home at 300,000 they'd be paying additional 1300 a year and that doesn't count what would happen with drainage, transportation, utility fees. This is a small neighborhood. There are many older residents and residents on fixed income. Let me also explain that this is not a subdivision that was set down on the edge of the city limits to take advantage of the benefits and amenities of the city without paying taxes. That's not the situation here. This is a semi rural area that has been around for a long time that essentially the city limits have marched toward. These residents have lived there for decades, in some cases on long-held family homesteads. At this point it's an abrupt transition for these residents and that's why I am moving to postpone it. The other things that you should know is that they are not now nor will they be Austin energy or Austin water customers.

[11:09:46 AM]

They're pedernales co-op and aqua Texas are the designated providers for this area. Even after annexation they can remain on septic choose they choose to do so and the system passes inspection. Currently they have police protection from Travis county and fire. So that's the situation here, and I think that it's appropriate in this kind of circumstance when we're really talking about an abrupt transition that relates to a significant cost to these people who have lived here for a long time, it's not -- it's not a new subdivision. So that's why I'm moving that we postpone. I'd also like to say just by way of explanation, the neighbors are here to speak. We -- there was some confusion on their part and so they didn't sign up properly when we had a public hearing. So my understanding is they cannot speak. I don't know, we maybe able to ask him questions if people have questions. But that's why you don't see them at the moment coming up to speak, because there was some confusion. Again, this is an areas that been there for a long time. They weren't thinking in terms of annexation so I'm speaking for them right now to explain what their concerns are. I would also say it's a small area. I think it's, what, 35 homes? 35 residents. I'm seeing them nod their heads. They are all opposed to this. This is not a -- for the reasons I stated. It's not a question of a mixed -- situation. I did go and visit with them so I had a chance to talk with them and understand what their concerns are. So did I get a second?

>> Mayor Adler: Did you move that. We have a couple -- councilmembers have asked to do that. Mr. Renteria indicated first so he'll second that motion.

>> Kitchen: Okay.

>> Mayor Adler: Is staff here on this?

>> Yes, mayor.

>> Mayor Adler: Okay. Do you want to respond?

>> Sure. The effect of a postponement -- we explained this on case, state law requires us to have the action within a certain time period after the public hearings.

[11:11:54 AM]

Postponement would effectively stop that, the possibility of annexation from happening. What it would effectively do is kill the annexation if we wanted we could add it to next year's program and go through the same process and it would probably be coming back about the same time next year.

>> Zimmerman: Thank you, Mr. Mayor. I'd rather have -- I'll be voting against this because I'd rather have the opportunity to vote no on the annexation. I think that would be a clearer signal. Let's just have a vote on the annexation, and I'd like to vote against the annexation.

>> Mayor Adler: So I think that one of the options -- we have a motion to -- help me here. We have a motion to postpone. The effect of the postponement would say we could bring this back in a year, which is the request -- they'd be able to have a transition period of time.

>> The effect would be the process we've gone up to so far, which have the public hearings and notices would be newly and void is and if we're getting direction to put it on next year's annexes program we can do that. That will take a year to come back.

>> Mayor Adler: Another option would be to approve this on first reading only and reopen the public hearing if we wanted to have a public discussion on that.

>> We could vote on first reading and we'd be required to take final action within 90 days but if you voted first reading it would keep the possibility of annexation out there.

>> Mayor Adler: From a staff perspective do you have a recommendation? Do you care.

>> We were recommending annexation because it meets all criteria from a fiscal and service standpoint but if that is the will of the council.

>> Mayor Adler: I think the council -- you want to talk to the council about why it is you're recommending that in the face of the issues that have been raised?

>> Sure. I'll allow Virginia Collier from my office to do that.

>> My name is Virginia Collier from the planning department and the reason we put this on this year's annual program is the development on the west side of manchaca effectively encircled this area.

[11:13:58 AM]

The area to the north was annexed in 2002. Areas to the east in 2003 and south in 2007 as those areas were developing. Now the area on the west side of this neighborhood, the opposite side of manchaca road is being proposed for annexation because it also is developing. It's true this area has become encircled by new developments and growth of the city limits so this would leave a doughnut hole and isolate this area from the balance of the county if we weren't to annex it.

>> Mayor Adler: Is there a way for us -- if we were to approve this on first reading only, that gives us 90 days to be able to work through these issues. Is it legally possible to identify something for annexation now and approve it but say it's not going to happen for a year so that people have a chance to adjust?

>> No. It would need to be effective within 90 days. The ordinance reading has to occur no more than for the days and less than 20 days after public hearings so those have been closed if it's your interest to bring this back in 2017 the city staff could add it to the annual program list of areas for 2017 and we would conduct the same public. Maybe new residents would move into the area between now and December of 2017 so it would make sense to go ahead and send them a new notice and go through the full process.

>> Mayor Adler: Because of the timing it doesn't help us to be able to postpone this for first reading because you have to be able to act. So really we have to act today one way or another, we're either gonna do it or not gonna do it.

>> Right.

>> Kitchen: I was gonna say this is a very small area and I understand what you're saying about new residents moving in but that's highly doubtful just because of the way the neighborhood -- like I said it's long-standing family homesteads and that kind of ethnic it's not an area where there's a lot of movement in terms of residents. My understanding, you know, councilmember Zimmerman, that postponement has the same effect as just voting no.

[11:16:01 AM]

So -- and I had initially thought that postponement might be the most appropriate at this time so that the neighbors could -- we could have a discussion with the neighbors next year because of the development around them now. You know, we can vote no next year too. So -- but I think the effect is the same today. So. . . I mean effectively, actually, maybe we just -- we just vote no. I think I'll change my amendment. I'll change it to just voting no because that way it's a no and then we could still have the discussion next year. You don't need our direction right now to do that.

>> Mayor Adler: So you would just put this back on the calendar.

>> It would be helpful if you could -- yeah, next year would be more appropriate as opposed to this year because the conditions will all be the same. So if there's an interest in 2017 or 2040, whatever your preference is, if you could give us direction on when to bring it back.

>> Mayor Adler: I'm going to join in on the councilmembers motion whether to postpone or vote no with the understanding that you'll put it back on the 2017 but the neighborhood has the year to be able to adjust and prepare for it. Ms. Pool?

>> Pool: Thanks. Yes, I was willing to support the postponement over -- and I think that's the better route. I do have a question, and I don't know, Virginia, if you're the one to ask or if it's councilmember kitchen. The residents in this area, are they seeking the services?

>> No. This was a city-initiated annexation. So they did not approach the city and request annexation if that's what you're asking.

>> Pool: If they are annexed they would have access to city services.

>> That is correct.

>> Pool: And that would generally speaking be a positive for that area, right?

>> Right.

>> Pool: Especially since it sounds like it's going to be isolated surrounded by already annexed and it's not its own town or incorporated area.

>> That's correct.

>> Pool: It just seems to me it's the smart move to go ahead and annex it for your standard basic city services issues like trash pickup, for example.

[11:18:05 AM]

Okay, thank you.

>> Mayor Adler: Further discussion?

>> Houston: Mayor.

>> Mayor Adler: Mr. Renteria and Ms. Houston.

>> Renteria: I'm willing to change my second to boning --

>> Mayor Adler: To do what?

>> Renteria: I'm willing to change my second so we can just vote no on it.

>> Kitchen: I'm gonna change my motion to vote no.

>> Mayor Adler: Is there objection to that vote change? It's been moved and seconded to vote no on this. Ms. Houston.

>> Houston: I just wanted to clarify, councilmember kitchen, it's my understanding that they're receiving water services and electric services from somebody else.

>> Kitchen: That's right. And that will not change.

>> Houston: That will not change. When we say they will be getting city services I just wanted to make sure that they will not be getting city services. They will keep the private contracts that they have now.

>> Kitchen: That's right. So annexation would not change that. In fact, we're prohibited from serving that area because it's been longstanding service for these other providers so we're prohibited from bringing in Austin energy and Austin water.

>> Pool: Mayor.

>> Mayor Adler: Mayor pro tem.

>> Tovo: I have a question for our staff. Given that the areas around it are all going to be within the city limits, how do our first responders know that this area in the middle of what you described as a doughnut hole is not an area to which --

>> Fortunately, the 911 dispatches for the county and the neighboring esds and so they would have these addresses listed as manchaca fire department or Travis county sheriff when an emergency call was to come in.

>> Tovo: Does it cause confusion, though, when they're on the ground?

>> I would --

>> Tovo: Is that one of the reasons why we don't leave doughnut holes?

>> That's one of the reasons like on manchaca road we said all the even numbered addresses will be city of Austin dispatch and all the odd number addresses will then be Travis county and the volunteer fire department dispatch. In those situations I think it would be tricky but they handle these situations all the time where there's city limits that follow a road and one side is in and one side is out.

[11:20:11 AM]

>> Tovo: All right. Thank you. This is the second one it looks like we're going to vote no on and I guess I would suggest if we need to provide different direction -- right now we have a city policy and our staff are bringing forward recommendations based on that policy. If then when it hits council we aren't supporting those recommendations perhaps it's time to look at the annexation policy and create some kind of other standards where -- or thresholds where if there's significant numbers of people concerned about it, the staff don't bring it forward or something of that sort. So I'm uncomfortable at this time veering away from our existing policy so I won't support the motion. I understand it sounds like it has enough support to pass regardless but I'm just trying to --

>> Kitchen: I'd like to.

>> Tovo: I was still finishing my sentence. Anyway, that's fine.

>> Kitchen: Did you finish? I'm sorry.

>> Tovo: I am now.

>> Kitchen: I'll clarify I'm moving forward this motion that still leaves us the ability to talk with the neighbors, talk to staff next year if it seems appropriate to bring it forward. A no vote today doesn't mean you can never bring it forward. It just means at this point in time it's not appropriate and it's not what is of -- it's not appropriate for these neighbors and so I would ask you to -- all to vote no.

>> Mayor Adler: I would join -- I mean, I'm voting in favor of your motion this time because my sense on the dais was it was gonna pass and I think the notice now is given to the neighborhood what the request was so they could adjust. It's happening here at the end of the year when tax notices come out in the next month or so, but do I agree with the mayor pro tem, we have a policy on annexation, we ought to be following that policy long-term rather than having ad hoc determinations like this. And I think that this really should come back to be reaffirmed by the new council here as we start next year. Maybe it's something that could be brought up at our retreat in January to discuss. Maybe that's the kind of issue that's appropriate for that. But I really do think -- I agree with mayor pro tem that we need to have a policy that we follow.

[11:22:17 AM]

Councilmember Casar.

>> Casar: And I want to explain why I largely concur with mayor pro tem even though I understand the reasons for waiting here. I think that it's an okay decision for us to wait on this one partly because this isn't a part of town we're gonna be getting lots of property tax revenues, these aren't 200, \$300,000 homes. These are some of the more modest and cheaper homes in the city, and I understand that. So I understand that if we wait a little while it's not as much to the fiscal detriment of the city so I understand the motion but I still can't support it because I fear that people not wanting to be annexed in the situations where it really does harm our fiscal position for us to not annex that they could use the same reasoning. And so that's the reason that I can't support it, because there are other times where I think we are going to continue to have opposition to annexation but we need to annex areas for environmental protection, we need to annex areas for the fiscal health of the city because for us to be able to provide the roads and the streets that you came into city hall on today or the police department and all these things, we need to be able to serve the growing number of people that work here, even though they don't pay our property taxes. And so while I respect and recognize what it is that's happening with this addition, and don't think it would cause much harm because it's a small number of homes, many valued at a hundred thousand dollars, at least from some of the folks that testified last, I just am -- I can't support the motion because of that longer-term issue and look forward to discussing

the annexation policy because I think it's really important for the health especially of a sprawling metropolitan area like ours.

>> Mayor Adler: Ms. Houston.

>> Houston: Mayor, I'm gonna be supporting the motion because I think when these annexations come at this late in the year, the impact on their ability to pay is going to be -- they need time to be able to adjust their budgets so that when this hits next year, when we look at it again and perhaps vote for them to be annexed in 2017, at least they've had notice and they can begin to try to manage their budget so that they can take that property tax hit.

[11:24:37 AM]

I think that's all they're asking for, is give us some time to be able to measure how much this is gonna cost us and how can we make sure that we have the money to pay the taxes. So I'll be supporting this and hopefully it will be coming back in 2017.

>> Mayor Adler: Further discussion? Mr. Zimmerman.

>> Zimmerman: Thank you, Mr. Mayor. Now I get to speak in favorite motion. First I want to say thank you to my colleagues who voted against the old lamb pass annexation about a year ago. I just want to say thank you very much for doing that, and I want to ask my councilmember colleagues, obviously I won't be here, but I would love to see you please change the criteria for annexation to include the consent of the government. You know, we found out a year ago that one of the things that is not on the criteria for annexation, nowhere does it consider the consent of the property owners. And I would like to see that changed. We really should start with the consent of the property owners instead of completely disregarding it as a matter of policy. So I'm gratified and thank you all for the chance to vote against the annexation.

>> Mayor Adler: Further discussions. Ms. Pool.

>> Pool: As I said previously I was gonna vote on the postponement. I'm not gonna support no vote mainly because it's ad hoc and I would rather maintain the policy we have going forward. I was willing to give the time. I am happy to know it will come back in 2017, but for the reasons that my colleagues on that side of the dais have expressed, I will -- I'm going to vote no. Thanks.

>> Mayor Adler: Further discussion? There's been a motion to vote no on this item 21. Those in favor please raise your hand. Those opposed. The vote nos are Garza, pool, mayor pro tem, Casar, others voting aye. Passes 7-4. That matter is taken care of. It is 11:26.

[11:26:37 AM]

I need to be gone. I'll be back here by noon for the citizens communication. Do y'all want to take a recess at this point or keep working while several of us -- who is gonna head over? I can give rides to people that are heading over. So you're losing four people. Do you want to keep moving? Preference?

>> Houston: On item number 2, the legal counsel is gonna have to leave this afternoon. What time will you be coming back.

>> Mayor Adler: 12:00, coming back at 12:00. We have condition communication at noon, 12:00 to 12:30. We could take the lunch break now and come back at noon.

>> Tovo: Mayor.

>> Mayor Adler: And then continue on at 12:30.

>> Tovo: I believe we have an executive session today.

>> Mayor Adler: I think we do.

>> Tovo: Two executive sessions.

>> Mayor Adler: Then we're gonna take a recess and we'll be back here at 12 noon. Meeting stands in recess until then.

[12:07:15 PM]

>> Tovo: Okay. We have two cancellations, that should help us run on time. Carolanne rose Kennedy is one of our cancellations. Our first speaker of the day will be Asad halai. Next up will be Moses saldaña talking about the pledge of allegiance. Welcome, sir. You have three minutes.

>> Hi, thank you so much for giving me the time. I purchased a tax property at 6402 Felix, and I was not aware of the liens on this property. Recently found out there are \$910.58. The administration part of it is half of it. And I am wondering if any of this can be waived if I want to pay off the lien on this.

>> Do I -- I've never done this before, so.

>> Tovo: So this part of the agenda works a little bit differently. You get three minutes to explain your case and to talk to council.

>> Okay.

>> Tovo: We typically don't have a back and forth q&a, but we can ask you at least at the end of your time who your councilmember is and probably it would be appropriate to either follow up with staff or the councilmember at that point. But, sir, if you would describe a little bit more about your situation during your time, and then we'll go from there.

>> At the time of purchase, I didn't realize there was a lien. I found out and I wanted to clear the liens on this project. It's located in southeast Austin. And the reason I'm here is I want to pay off the principal, but I was hoping that there was some leeway on the interest and the admin, which was charged to the previous owner, who died, I believe a couple of years ago.

[12:09:19 PM]

And that's pretty much it.

>> Tovo: Thank you so much for being here with us. If you're willing to share -- you said you live in southeast?

>> No, this property is in southeast.

>> Tovo: Okay. So I would suggest you plug in the address of it on the city website and determine who your council representative is and maybe communicate directly with that person and they can get you in touch with the proper staff. I'm not sure we have a process for waiving fees of that sort, but they can help you get an answer to that. Thank you so much for coming down. I'm just about to get to that, Mr. Peña. I apologize, I started in the middle of the list rather than at the top. That's what happens when you're trying to operate with a partial migraine, so I apologize. I'm doing my best, Mr. Peña, but you're second. Mr. Carlos Leon is first. I'm going to backtrack and we're going to hear from Mr. Leon, and next from Gus Peña. And thirdly from Moses saldaña. Welcome, sir. You have three minutes.

>> Yep. Soy Carlos Leone, and here I am in Austin Texas to speak what's right, [speaking Spanish]. First and foremost, gracias a dios for truth and light defeating lies and darkness. Glory to god for choosing president-elect trump to make America great again. Amen. Let's help trump serve the lord and us by holding him accountable for his words and actions, because iron sharpens iron like man sharpens man, proverbs 27, verse 17. So trump's law and order pledge means constitutional law applies to all of us again, meaning to lock up crooked Hillary for her crimes against us and our country.

[12:11:28 PM]

She must first be legally arrested, charged, convicted, and tried and convicted per the fifth amendment's due process clause. That means each of us is innocent until proven guilty. However, any presidential pardon should be considered illegitimate until Obama or Biden publicly and legally prove he is constitutionally eligible to be president or is legally acting as president. Righteousness exalteth a nation, but sin is a reproach to any people, proverbs 14, verse 34. So let's make sure president trump nominates conservative supreme court justices to overturn roe V. Wade and stop abortion. Amen. And to man-hater Lena Dunham and feminist lunatics like her who promised to leave the country if trump won -- bye. That's addition by subtraction. But her and their word means as much as Madonna's, who falsely promised oral sex to men to vote Hillary. That's how sick, untrustworthy, manipulative and controlling those ugly, evil witches are. Pray for their healing and salvation to move forward stronger together by turning away from Satan and turning to, fearing, and following god and his word.

[12:13:30 PM]

[Beeping]

>> In Jesus' name I pray, amen. Thank you, lord. God bless Texas and the united States of America.

>> Tovo: Okay. Next up is Gus peña. Mr. Peña is speaking about a variety of issues. Happy veteran's day to all my -- I'll let him address them, they're posted.

>> Good afternoon, Gus peña, proud native east Austin, marine Corps veteran, happy veteran's day, November 11th, 2016. We gave it our all. Y'all will have the day off. Many veterans are homeless or unemployed. Thank a veteran for their service, and for freedom, especially to recognize, thank, and support our female veterans for their service to our country. They are tough, also. They deserve our recognition and also their respect for them. November the 10th, 2016, today is my United States Marine Corps birthday. We are 241 years old, semper fi. We gave it our all. My dad, Lucio, World War I. Step brother Lucio II, Pilar, United States Marines, Gilbert Lucio III Navy, Jesse air force, peña family fought for our country and other country's freedom, safety, and democracy. Mayor pro tem, 15 and 16 million women who served in the military sleep on the streets daily. This is from time magazine. Time magazine. How many veterans are in the streets here in Austin, okay? And I just wanted to say this. Secretary Castro, I know him and his brother, and their mom. It is a disgrace to say that homelessness has been ended here in Austin, Texas, just because there are steps and other organizations taking care of homeless people. You do not claim there is no homelessness here in Austin just because you have the services and the steps.

[12:15:34 PM]

People are out there homeless, military veterans homeless, single women with children are homeless. And it is on the increase. Mayor pro tem, we as Americans, we as citizens of Austin, Texas, and I'm a proud native east austinite, should combat homelessness and be honest about it. I spoke to the secretary of veterans affairs. Like I said before many times, he is disgusted and angry by saying that Austin declared no more homeless because the service is out there. Not acceptable to us veterans or anybody that claims to help the homeless. Mayor pro tem and councilmembers, I thank you very much for your service. I know it's tough. Rick, congratulations to you. We continue to support you even though I'm not in your district, but a lot of my friends and family are. Support the veterans. Today is -- tomorrow is veterans day, Friday, November 11th, United States Marine Corps birthday. Support all our veterans. They gave it our all in many wars and conflicts. Thank you very much. Continue to support our veterans all day long, all year long, and as much service as you can help out with them, we need housing for the homeless veterans. Thank you very much.

[Applause]

>> Tovo: Thank you, and thank you for your service, Mr. Peña. Moses saldaña is our next speaker. Next up will be Sarah black. Mr. Saldaña is speaking about the pledge of allegiance.

>> Good afternoon, mayor pro tem, and fellow council members. This 85-year-old resident of Austin, Texas, and his family thank you very much for allowing me to speak before you pertaining to one of my favorite topics, the pledge of allegiance, all over the place.

[12:17:36 PM]

And if I could, I could read a petition we passed out several days ago. We, the undersigned citizens and taxpayers of Austin, Travis county, Texas, respectfully request that you, our city leaders, consider placing reciting the pledge of allegiance back into your regularly held city council meetings and to commence as soon as possible. I hope and pray that this body of public servants will also agree with the request written or verbally to you from our citizens from around the Austin, Texas area. And god bless y'all and keep up the good work.

>> Tovo: Thank you, Mr. Saldaña. Thank you for your service.

[Applause]

>> Tovo: Ms. Black, Sara black, talking about oral response to citizen survey. Lisa Hinley will be next.

>> Thank you, mayor pro tem and city council. I received a survey in the mail on rating Austin on different services and I just wanted to say, if I gave them stars, I would give Austin two stars out of five. One question that stuck out was the way that it wanted me to rate emergency services all on one question. They had emts, fire department, the police, how did I rate those services. That was just one question. You can't put all of those three together because the Austin fire department -- I've never had a problem with them. They've always been professional. But when it came to, of course, I hate to say the police department, I did have problems with that.

[12:19:38 PM]

And I think that's been documented in my earlier speeches, but let me regress a little bit. The reason I came to Austin, since tomorrow is veteran's day, is my father was stationed at the air force base. That's how I came here. I'm the daughter of somebody who served our country. And once I -- I wanted to be an FBI agent, so I lived my life straight and narrow, honor society, you know, church -- going to church. But once I called the police that fateful day in 2003 where they falsified the police report, you know, all that went up in smoke because it's cumulative, because future police officers look on those false police reports and then before you know it I have a different name, Sara black. So -- I mean, Acevedo's wrong about, you know, that somebody doing nothing is not in trouble with the police. I wasn't doing anything wrong. They were making up false police reports. It was in plain sight, because one of the recent ones the police officer wrote in the fact, it's a fact she did not sign her correct name. That's in plain sight, why would I have to file any kind of complaint about that? I'm sorry I have messy handwriting but it's not a crime. Also in plain sight is kensington apartments. That property is not zoned properly. It's zoned as if it's a hotel. That is not a hotel, it's an apartment building. And if you move from there then your mail can't be forwarded because they're zoned like they're a hotel. And also the election for Tuesday -- well, since they're all bills paid, you won't be able to show a electricity bill from them.

[12:21:39 PM]

And I do want to thank capital metro -- I don't know if this is a city service, but I want to thank them for rolling back the prices starting next year.

[Beeping]

>> And I hope I escape from Austin. Thank you.

>> Tovo: Lisa Hinley speaking about restore rundberg final report, and next will be Zenobia Joseph.

>> Thank y'all for coming down. I'm Lisa Hinley, chair of the neighborhood team. We're the center area of the restore rundberg grant. It was our crime hotspots that made it all possible.

[Chuckling] There's not a final report. There was to have been one last November, which would have let y'all use that in budget decision-making. You extended the time for UT to deliver it through September. Still don't have it. What that means -- and that's over and past, the money's gone. But the point I wanted to make y'all -- we just don't know what happened. And as y'all are making decisions about public safety, really important decisions, do you spend money on police, do you spend it on human services, does it go to our area, does it go to another crime area, I would encourage you to think about, as you're using restore rundberg as a basis for that, how you know the things you know. There's not a good record of the activities that took place. We know they did a year and a half of zero tolerance enforcement, worked with the courts for harsh sentences on fairly minor offenses. We know they stopped doing that and started doing kind of a no enforcement, a heavy police presence, community policing, not enforcing unless something serious happened right in front of them. But we don't know how many people were affected by that, how they were affected, did it change their behavior or their life. We do know the community policing consultant's report suggests that -- or says that Austin doesn't have good structures for community policing.

[12:23:49 PM]

Just recently we got a report from John Jay university about looking at high minority, high crime neighborhoods and how there are discrepancies in how force is used, although they didn't talk about why. So there's just a lot of gaps there. There was 100,000 out of the grant used for public relations and admin, so we have seen a lot of media about restore rundberg and their anecdotes, positive and negative. But there's not a lot of systematic information. There's a whole lot of other things going on in our area. A whole lot. A really huge impact has been our schools, aisd as well as our charters. We've had about \$70 million in facilities just over the past five years, and it's not that we have some fabulous campus, that was to get us to capacity. We were that overcrowded. There's also been funding from the state, from private foundations, from nonprofits around things like teacher retention, that we have more experienced teachers building parent support systems, making the parents feel comfortable in the schools, and a lot of careful analysis around optimal health, e3 alliance, some of the private foundation funders. I would encourage y'all to look at that sort of --

[beeping]

>> That sort of data analysis as you're making those decisions as well. Thank you.

>> Tovo: Thank you. Zenobia Joseph, public information request, greater Austin black chamber of commerce, etc. And our last speaker for the day will be reedy Spigner. Welcome, Ms. Joseph. You have three minutes.

>> Thank you, mayor pro tem, councilmembers. I'm Zenobia Joseph. My comments today are specifically related to public information act request. I wanted to call your attention to a request that I actually made to the greater Austin black chamber of commerce.

[12:25:53 PM]

It was specifically related to the information that they received from the city, \$171,000 which was basically item number 99, the budget request, was information from councilmember Zimmerman. I then asked them specifically what they do with the public dollars. And if you look at the screen you'll see where it specifies that Tim Hawkins basically just thanked me for sending her the email. You can move

to the next screen. And she did not reply or send that information. If you go to the second page, staffer. I hope you won't count that against me. I just wanted to call your attention to the response that I received from the city of Austin. It specifies the city of Austin does not require the greater Austin black chamber of commerce to provide information regarding itemized expenditures on forums, class, and scholarships, therefore, we do not have such information. You can remove the document. My point to you is that I do believe that we need greater accountability as it relates to the funds that go to the greater Austin black chamber of commerce. And as it stands, we do not have that information. You do not require that they provide itemization of the public dollars. I want to tell you just to contextualize my comment, I actually wanted to know why it is that we had to pay \$30 for a ticket to see the Houston university president speak about the state of black students. It was on or about October 25th, 2016. And basically I had asked for a ticket not just for myself, but for the citizens who wanted to attend that event. And that is what actually got me to ask the question about what they used the funds for, because oftentimes the greater black chamber does not have any events that are free of charge.

[12:27:54 PM]

The other thing that I wanted to call your attention to, and I did want to thank councilmember Houston's staffer, he said we shouldn't take credit for something we didn't do. But this past Friday was the -- there was a gala for the African-American youth harvest foundation and Dr. Cornell West was speaking. Those tickets ranged from \$100 to \$10,000 and then they were discounted to \$5,000. I asked that the city actually consider coming up with some type of proposal where the organizations that receive approximately \$100,000 of taxpayer dollars have to actually set aside tickets or at least one table for the citizens who cannot afford to attend their events. So if there's an annual event, that needs to be something that is automatic and not one person like myself constantly asking for that ticket to be set aside.

[Beeping]

>> And I thank you for your attention, mayor and councilmembers.

>> Mayor Adler: Thank you. Kyle Hoskins.

>> Tovo: Mayor, he cancelled today. We have just one more speaker, and that's Reedy Spigner.

>> Mayor Adler: Great, thank you.

>> I appreciate the opportunity to speak. Good afternoon, mayor, and councilmembers. I was actually brought here today, or I came in today. I have some questions regarding the east Austin survey. I know last week we were here and there was an item on the agenda, item 53, a proposal that was sponsored by you, councilwoman Tovo, and it was Ora Houston also showed her, I guess, approval or response for this particular item on the agenda. And it seemed that this particular agenda item or proposal, or resolution rather, was somewhat deceitful. Or not deceitful, it was somewhat hidden. I know that it was a historic landmark commission issue that also had a resolution lumped into it to redo the process of going up against a historic landmark commission regarding a historical property, and I believe it was a property on Paloma.

[12:30:12 PM]

Was it Paloma? Yes. Plaza. But the resolution also would redo or would redo the process regarding the historical landmark, the commission, once it came to the city council, you would have to have a supermajority in order to get your demolition permit. My reason for being here, once again, is simply because I have a couple of issues with the east Austin historic survey. I know that you paid approximately \$300,000 for that survey, and that's a lot of taxpayer money. That's a lot of money that -- for a survey that we really didn't know what was going on in the east Austin community. I know that you

sent letters out stating that you were doing this survey, but it didn't show or say exactly why you were doing the survey, what's going to happen once you create the historical district, and how are the residents going to be affected by the findings of this particular survey. I noticed that several houses were marked historic. And it could either be by the people who live there or the type of structure that was on that property. So my questions to you all are, is it possible that you could get out and allow the individuals who would be affected by this survey to know exactly what the survey's about, why it's going on, and what's going to come of this survey? Is this survey going to enable you to look and make changes that will affect the residents of east Austin, Texas? It's just one thing that we need to know, we need some transparency in how this survey going forward, since it has been completed, I believe on October 15th, 2016? And how this is going to affect us. And where do you go forward from here. We just want to know exactly what the historical district is going to entail, how the residents will be affected as far as their property values are concerned --

[12:32:12 PM]

[beeping]

>> Thank you. Thank you for your time. I don't want to take up any more of your time. Thank you.

>> Mayor Adler: Thank you, sir. I think those were all the speakers that we had listed. It is 12:32. We're going to go into executive session. Do we want to tell people we'll be out in an hour, 1:45? We'll shoot to be back here by 1:45. Now we're going to go into executive session to take up two items, pursuant to the government code, item 65, legal issues related to the anti-lobbying regulations, request for proposal CDL 2003, the management of biosolids reuse, and request for proposals jxp0501 for the sale and removal of compost materials. And item 66, legal issues related to chapter 245 of the government code and proposed approval of project consent agreement for the property located at 2636 road and 12501 Hewitt lane. Item number 64 has been withdrawn. Any objection to going into executive session? Hearing none, we will now move into executive session, back hopefully at 1:45.

[2:00:18 PM]

. Test.

[Executive session]

[2:31:16 PM]

[Executive session]

[2:54:15 PM]

>> Mayor Adler: I think you're safe. Are we about ready to get started? Do we have a motion sheet on pilot knob? All right. We are now back from the executive session. In executive session we took up items 65 and 66. It is 2:55. We are back here. Let's take up the first item, which I think is number 2. Ms. Houston? Is staff here for this? Is there an ordinance for this? This is the spay-neuter item.

>> Houston: I saw staff here earlier.

>> Mayor Adler: Okay. Oops, we told staff we would do it after 4:00. I think when we called that earlier we said we'd do it after 4:00. That gets us to pilot knob, which is --

>> [Off mic]

>> Mayor Adler: But we don't have the sheet for that so we're going to hold off on pilot knob.

[2:56:16 PM]

That gets us to Palma plaza, number 16. Mayor pro tem?

[Applause]

>> Mayor Adler: Do you want to lay this out? Should we talk about this? This is Palma plaza.

>> Tovo: We could or not. I talked about it as some of my colleagues might say excessively last week. Please note that the backup -- the new version does eliminate the second half of it. And so for the reasons I suggested last week, there was a variety of procedural issues that occurred at the historic landmark commission. I believe this is entitled to a fair hearing and there should be at least as many came from commissioners as are required to actually pass a recommendation.

>> Pool: I'll second that.

>> Mayor Adler: Mayor pro tem moves to initiative historic zoning. On that property. Seconded by Ms. Pool. Discussion on this item? Yes, Ms. Kitchen?

>> Kitchen: Are we gonna hear from the --

>> Mayor Adler: I think we should.

>> Kitchen: Yeah, I think I --

>> Mayor Adler: We have some people that have signed up to speak.

>> Kitchen: Okay.

>> Mayor Adler: Is the applicant -- or is the property owner here? Do you want to come and talk to us? I'm going to let you open and close again. You have five minutes.

>> Thank you, mayor Adler, members of the council.

[2:58:17 PM]

First let me just say hello to councilmember troxclair and welcome you back. It's great to see you back on the dais. I had an opportunity to tell you my views on this last week. You know that we -- that we believe that in fact while the mayor pro tem has said there was not a quorum present for a super majority, we disagree with that. In fact, I would refer you to section 2.1-26 of your code of ordinances that lays out when a board member is vacant -- rather is absent for three or more meetings, an automatic vacancy occurs. The city clerk is directed to inform and notify the appointing councilmember that that vacancy has occurred, and then a -- that seat becomes a hold-over seat. The hold-over continues until a new appointment by the councilmember or 60 days after the notice occurs. Deena Estrada, who supports the boards and commissions for you, informed me earlier this week that that automatic vacancy occurred in July, that she notified councilmember's Renteria's office in July and that the seat passed from being hold-over to vacant in September -- I mean occurred in October, and I think it's fairly cut and dried. That actually the numbers should have been used were ten and in fact this is exactly the policy that Mr. Sadowski and historic land commission have followed all year long. So to the mayor pro tem's point about the irregularities at the historic landmark commission, there may well be changes that you want to consider going forward, and we really have no opinion on that, but we do believe that it is an inappropriate to retroactively apply new rules to projects and C

[3:00:23 PM]

>> We think this is a terrible postal child for whatever the case is trying to be made.

-- Poster child for whatever is case is trying to be made. And he went through in his written report why. We've heard other testimony that he really likes the building. He believes it's a great building, but it doesn't meet this criteria. Here's what I really want to tell you. Today I'm happy to report we've entered into an agreement with the neighborhood association to collaborate on the creation of two

neighborhood parts in the old Austin area. West Austin park and a new park to be created -- Palma plaza park. And we've made some other agreement. This has been reduced to writing. It's been initialled by both parties today, and in exchange for that, they've agreed they will not give an opposition so the issue regarding a demolition permit. So we're proud to be in partnership with the neighborhood to create what we believe is a win-win for everyone and to leave all the arguments and contributing/non-contributing 7 and 8 and othering behind and move forward in a very positive collaborative partnership. We would urge you to support the work that the neighbors and we have done together and to vote against the motion to initiate so that we can move forward. Thank you.

>> Thank you. David king, do you want to speak?

>> I donate my time.

>> I'm sorry. Alison Mcgee, do you want to speak? You have six minutes if you want it.

>> Good afternoon mayor and council members. I probably don't need six minutes. I'm the immediate president of

[3:02:23 PM]

-- Austin. A representative from our organization spoke at the last meeting in expressing our support for initiating historic zoning. We took that position in solidarity with the neighborhood folks who were concerned about the loss of this property. You know, given this new information today that they have come to an agreement that they feel comfortable with with the developer, I think preservation Austin's position may have changed somewhat. We do feel that this is an opportunity to look at issues -- procedural issues in the code so these types of issues are not coming to council, and we can have better resolutions from the historic landmark commission. So that's pretty much our position at this point.

>> Thank you.

>> Thank you.

>> Maureen methauer?

>> My name is Maureen -- we're neutral now in this initiation of historic zoning. We did support historic zoning on this property. And due to the numerous errors going on at the historic landmark commission, it was given, you know, Kisch rare hearing. There was enormous support, however, because of the way the rules were written, we were not able to go with that. We thank mayor pro tem for bringing this to you and we hope the agreement going forward will be of mutual benefit. We'll vehemently take issue to the fact that there needs to be an amendment to the code regarding the way they're functioning. We've had numerous -- that have been lost due to inconsistent information, lack of quorum, and really lack of training on members of parts of mlc.

[3:04:31 PM]

We look forward to presenting a process to look at issues as well as other tools that will ensure protection of historic assets around the city which are of value not only to the neighborhoods and the residents, but also to the city at large. We're the capital of Texas. We have numerous people that come here to tour, that come here to partake in state government. And we're losing the history of the city piece by piece. I, for one, would like to see a better and broader emphasis on that. I truly urge you all going forward, and I home mayor pro tem toval will continue. We'll work hard for that.

>> Thank you. Terri O'Connell?

>> Terre O'Connell? Rosemary Miriam? Okay. Those are all the speakers that we had. The last two, by the way, Ms. O'Connell was for not wishing to speak. And Miriam was neutral. That gets us back to the dice on this matter. Any other issue on historic zoning. Yes, Ms. Pool.

>> I continue to sponsor the resolution with the ordinance change because I agree that there needs to be some addressing of the process. I do want to thank the developer and the people, the parties, surrounding it for the additional work that you've done. I think the funding for the park and the partners on the new park nearby is really terrific. And I support that. On the procedural rule piece, though, I need to continue to support the maker of the ordinance change, and I want to make sure that we are not losing elements of historic Austin too quickly and without the proper process to make sure that they are protected.

[3:06:45 PM]

Again, thank you, Mr. Trekel
(phonetic) And Ms. Steed
(phonetic) For the efforts you're going to.
>> Ms. Kitchen?

>> At this point, I am -- I agree that we need to look at our processes for historic designation. And I look forward to the second part of what was the original proposal and spend some time going back to see what we need to do with regard to clarifying our requirements to make sure that our procedures are appropriate because I think that the procedures that we have right now for the landmark commission are not working as well as they should. In this instance, however, I think that I'm going to -- I wanted to say thank you to the neighbors and the developer for what appears to me to be a solution that they have worked out. It appears to me to be a win-win for all involved. I'm going to be voting against moving forward with sending this back to landmark commission.

>> Mayor?

>> For the discussion?

>> Mayor?

>> Yes, Ms. Houston?

>> Because this has happened to me on some historic properties in my district, I'm going to be supporting the resolution. I'm glad that the developer and the neighborhoods have been able to work out a compromise. I think that's a great step. But the fact remains that we're going to lose a four-plex. When we talk about different kinds of housing types, those four-plexes, duplexes, tri-plexes are what we say in code Austin that we're trying to do. Here is an early example of a four-plex, yet we're not willing to repurpose it for housing.

[3:08:46 PM]

So I'm going to continue to support moving this forward to the landmark commission.

>> Mayor pro tem?

>> So we had an opportunity to have a conversation with this last week. I know the question before us was not to assess the value of this structure. I have provided a little bit of information about it so we could continue our conversation. I understand that and appreciate that the neighbors have continued to talk to 4t and have come to an agreement. I understand the agreement requires their support of the demolition permit and a request that I withdraw the resolution. So noted. I chose to move forward with it anyway today because the reason that gave rise to why this resolution is on here remains the same. There were procedural rule issues at the historic landmark commission. This is a structure that I believe there's significant evidence which was a contributing structure within a national registrar historic district. I believe strongly based on the information that I've read ought to be preserved because it meets the requirements of our historic landmark commission -- our historic landmark designation. I understand it's likely to be unsuccessful, but I want to make it clear why I've moving forward. None of

the circumstances have changed. I'm glad there's an agreement, however, the agreement is not going to save -- the agreement is about some community parks. It's not about ways to salvage this structure. It's not about moving it to another location or supporting variances to add on. Whether the structure deserves a fair consideration of its community value still remains before us. I am completely committed to moving forward with some of the changes we talked about last week, but generally I believe we need some stronger requirements with regard to demolitions.

[3:10:48 PM]

I'm going to give a couple of numbers very quickly. Last year within a national register historic districts, there were 23 total demolitions of contributing structures outside of districts. There were 1,000 -- more than 1,000 total demolitions. A whole lot of these are happening within the neighborhoods that I represent in city council district 9. These are some of our older neighborhoods. We're losing one after another after another. We're losing the historic fabric of our city. When we approve demolitions, we make it easy for demolitions to come through here. In this case we see not just procedural issues from the landmark commission, we see the significance of a prompt when you have, as I mentioned last week, somewhere in the neighborhood of 45 different occupants. Usually -- not usually. Occasionally they only list one name for an apartment, rather than the two or three people who might have lived there. You're trying to assess -- you know, we asked the land officer to assess the significance, and the list is pages long. I don't think anyone could have done a thorough search on those. I think we need to really look at community value differently. I initiated an ordinance change some months ago that I'm interested in knowing, and maybe today is the day to invite Mr. Kerns or Sadowski is in the process. Community value needed to be -- and this council agreed -- needed to be defined to really capture the community's significance of places that, as I argued last week, are significance in the types of people they house and the structure in Austin's economic history. I will conclude by comment there is, but I would like an answer from Mr. Rustover or -- on where that is in the process.

[3:12:53 PM]

I heard the preservation officer and others talking about that term in relationship to this building. I think having a better definition would help.

>> Mayor pro tem, that had two part. One had to do with the civic uses. That is being postponed on this agenda. Reporting back to the council by the end of next month. And we're still working it up.

>> Several people have kind of asked where it is. Is it at the landmark commission? Have they provided feedback on it and it's on its way back, or is it yet to hit the landmark commission?

>> It has yet to hit the commission.

>> All right. Thanks.

>> It's been moved and seconded. Historical zoning for further discussion. Ms. Gallo and Mr. --

>> You know, I really appreciate in this case the agreement of the applicants to former partnership with the neighborhoods to contribute funds to improve those two parks, the west Austin park and the Palma plaza park. We all know as we talk about funds to improve and maintain parks that our parks department does not have enough money to be able to adequately do that in all the parks in the city. So I think that's a big accomplishment. We appreciate the cooperation to do that. I think it's also important that the applicant has agreed to participate in the architectural review process for this particular property. You know, the fact that preservation Austin and Wang both have become neutral in this is going to be important in how I'm going to vote, but I do think this is really an example of all of us working together, the neighborhoods and the applicant, to come together with a really balanced solution for the community as a whole.

>> Okay.

>> Thank you, Mr. Mayor. I will repeat one thing I said last week about the kilo versus New London back in 2005.

[3:14:59 PM]

It was a property rights case. I jotted down a couple of phrases that I heard. My concern on what's happened here on council, I took an oath of office to uphold and defend the constitution nearly two years ago when I took this office. Instead of thinking about it, I think the rule of law and what that means and people's property rights, what we talk about is historic fabric, community value. These are completely subjective terms, and my concern has always been that our council doesn't look at property rights as a real thing but instead turns to these completely subjective notions like historic fabric. There are as many definitions and opinions as to what the city's historic fabric is as there are people in this city. There are hundreds of thousands of definitions of community rail you and historic -- community value and historic fabric. The city cannot be governed in this way. It is chaos. It's an arbitrary rule of politicians and various experts as opposed to the rule of law. So I'm enthusiastically voting against this. I apologize -- I apologize to the property owners that might lose control of their property. It's the best we can do. I will be proudly voting no.

>> Further discussion on this? Okay. Those in favor of initiating historic zoning, please raise your hand. Houston, mayor pro tem, Ms. Pool.

>> Those opposed.

-- Motion fails. Okay. Next item that we have, I think, here is pilot knob. Item 8 and no. 32. Item 8 is a development agreement.

[3:17:00 PM]

I don't think we're in a position to be able to do that today. That gets us to item no. 32. Item no. 32 has been handed out. I would move to amend the ordinance and back-up by deleting part B, subsection B entirely and replacing it with the language that's been provided. It was posted yesterday, handed out on the dias here, and to delete part 12 section h-2 entirely. The net effect of this, as you recall -- council member, first, is there a second to that motion?

>> Council member Garza seconds it. We went through -- this is pilot knob. The ordinance court came back and invalidated the third reading and did that because we had failed to properly notice the third reading. Staff has now renotied that third -- re-noticed that third reading on what was the court's objections. This amendment would have us changed what we passed on third reading before. So not as to not prescribe how affordable housing might be handled so as to give our staff additional time to take a look at this question, both to look at the vehicle that was employed when we did it in the third reading, to look at what we had done in that subsequent ordinance to see if there were other things that we might be able to take a look at and then come back to us in the next two or three months to be able to see if there's something we can do that would pass muster. If not, it would have us reverting back to what, in essence, was the mud agreement plus what we might be able to do with the smart housing.

[3:19:13 PM]

So basically it just allows the pud to be implemented so that process can continue, and it puts in an ability for the staff to take a look at this question because, quite frankly, some of the questions that have been raised may have implications that go beyond pilot knob. We really, rather than reacting

quickly, I think we should take a more measured approach, and this gives us a chance to kind of take a step back and take a look at all of the different possible available tools. It has none of them being affected without coming back to this body for approval. Yes, Ms. Pool?

>> I just wanted to make sure I was understanding about the affordable -- the rental units are not included in your amendment because they're part of the original mud agreement; is that right?

>> That is correct. And 10% of the units would be affordable at 6% for 40 years. Is the smart housing program any part of this?

>> The smart housing program is one possible way for us to get to owner occupied affordable housing, but we're not prescribing that it has to be done that way.

>> Right.

>> It's one of the things that we're asking staff to come back to -- look at and come back to us.

>> Thank you.

>> Mayor pro tem.

>> I wanted to ask that question of our legal or city staff. I want to really fully understand. I saw this post yesterday, but I really need to be sure that I understand what is in the ordinance if we pass this? Does it commit us to using the smart housing? Does it commit us to waiving fees?

[3:21:16 PM]

Assume it does not.

>> Council member, it does not commit the city or the council to any particular mechanism for providing the affordable housing. It provides that basically -- basically that there are types of things that could be used, and the council would consider those things in the future.

>> So as we're considering it today, there's nothing in the pud ordinance currently that would waive fees on either market rate or affordable units without further action from the council?

>> That's correct.

>> And is that true for the owner occupied or is that true for the multi-family units as well?

>> That speaks to all of it.

>> I don't see how this speaks to multi-units. The original ordinance didn't speak to it directly. Here in lies the problem. It wasn't cited in the pud ordinance. We need to understand if we're triggering any of those in what we're being asked to core today >> I'm the director of neighborhood housing and community development. The base agreement we have that we refer to as the Mudd agreement says they're going to provide -- at the 60% mfi level. There's no reference to that in the pud ordinance because it's already in the underlying mud consentment agreement.

>> So absent any further action of council or identifying any funding mechanism or identifying other kind of things that you've laid out here, really underlying any mud mechanism, the pud would revert back to the mud agreement which were first time of sale.

>> 10% of the owner occupied units available at a sales price

[3:23:20 PM]

-- affordable sales price at the first point of sale and 10% of the multi-family unit available at --

>> Up to -- proceeds in the mud consentment agreement.

>> So basically what we're considering here today, more or less sets that as the default.

>> Correct.

>> And further action from council would be necessary to alter that today and to require any additional funds in the form of waivers or other kinds of affordable housing support?

>> Right.

>> Okay. All right. Thank you.

>> Okay. Any further discussion? Yes, Ms. Pool?

>> One question from me. What is the plan for annexing this property? When will it become part of the city of Austin? Do we know?

>> The property is currently in limited purpose jurisdiction of the city of Austin. The plan would be to full purpose annex it once the bonds are paid off.

>> And can you give me an estimate on how many years that would be?

>> Twenty to thirty.

>> Okay. Thank you.

>> Now, the question that you had, mayor pro tem, you asked where in the agreement did it address the multi-family. The multi-family is part a of the base document as posted in our ordinance. So it's there. And this amends section B, which is the owner occupied housing. And in section a it lays out the mud parameters.

>> As I recall, though, the ordinance we adopted last fall also had fee waivers for the multi-family units. So what I'm trying to determine is whether this includes fee waivers for the multi-family unit or does not.

[3:25:26 PM]

And I'm having just a little -- I have a ordinance in front of me, but I'm having a little problems.

>> I don't think it does. There were no mud waivers --

>> There's no fee waivers applicable to the multi-family.

>> There were in December I thought there were. >>It's my understanding there were not.

>> I don't think there were for the multi-family component.

>> That is correct. So there's no fee waivers applicable to the rental, and it was not required in the mud, and it did not carry forward to the pud.

>> In any event, the pud ordinance we'll be passing today has those requirements for multi-family and does not provide for an associated fee waiver with it. That's section a on page 7 of 20. Section 20. Great. Mr. Casar?

>> I just want to speak briefly in favor of the motion because of what happened in court. We have to vote again on the zoning component. I understand we still have a lot of work to do on the affordable housing side. I appreciate this buys us time. We didn't have work session. This was just posted on Friday. This buys us the time to talk about that really critical component because I think that pilot -- the pilot knob deal along with the accompanying resolution we passed and about how the housing money could be spent represents tens of thousands of housing opportunities not just at pilot knob but all over the city. I would like for us to find out the best ways for us to still achieve that. That does cost money or require creative solutions, and I look forward to working with the community and with the dias on what those solutions may be over the next few months, and I appreciate this gives us some of the flexibility.

[3:27:27 PM]

>> Mayor pro tem.

>> So I have a couple more questions. One is I'm looking at the physical note. It talks about multi-family units receiving 25% smart housing capital recovery fee waivers. So what -- help me understand the comments that were made earlier.

>> Mitt city cotton, the city attorney. That's correct. The language in part B of what

-- what is now part B of what you did in December talked about all residential units being available for smart housing waivers. That was underneath the section that had to do with owners even though it said

all residential units. It would in part be suggested by the mayor when they eliminate that, eliminate it for everything. Not just the owner occupied because in the original ordinance, that's where it was found. It was underneath owner occupied, but it was just an error in how it was organized and made it hard to read, hard to find it, but it was there.

>> I thought I remembered them being there.

[Overlapping speakers] When I heard there were none, I didn't ring true to me.

>> It's no longer -- what the mayor suggested removes that for owner and occupied.

>> Thank you. And I have an additional question for the amendment for us today. It talks about the funding necessary, et cetera, et cetera will be adopted by separate ordinance and other action. Do you mean council action and what other sort of action would that be? A resolution?

>> That was the language proposed by the mayor, so I will let him tell you.

>> I guess I would like to know from staff what other actions it would be. I'm assuming those are some kind of action that would come before council with a vote. I want to verify that.

>> Yes. Another possibility would be some sort of agreement that council -- that the city would enter into but that council would have approved. Those were actually the two mechanisms we were thinking of, either an ordinance -- depending on really what you decided to do.

[3:29:35 PM]

That will determine the best way to memorialize what council decides to do. So it could be an ordinance. It might be an agreement.

>> Is it --

[overlapping speakers]

>> -- Assumed that it is an action of council without that language of council?

>> Yes. Yes.

>> Okay.

>> And unless there be any -- and lest there be any question, that's my intent.

>> Okay. I think that was my last question.

>> Okay. Any further discussion.

>> On this one. Thank you.

>> And I just have one last request, mayor, if we move forward on this amendment. Back in February, we all got a letter from the water waste water commission budget committee. And Becky -- was the chair of that budget committee and also chair of the joint committee on the Austin water utility financial plan. And, of course, she has some knowledge about the history of the financial difficulties, which we have talked about some from the dias and work session. I just wanted to make sure that when we're looking at trying to find new ways to find money to fund affordable housing, that we -- if we're going to continue to look at the water utility that we bring in the commissioners who have some pretty good extensive knowledge and expertise on how they have been trying to work themselves out of their debt position and to make sure that we're not having some undue consequences to our water utility funding without having full opportunities for them to weigh in. So I would like to include the water waste water commission budget committee as part of the conversation, to include them in the conversation, if that would be possible.

>> We certainly can. I think it would not just be limited to them.

[3:31:37 PM]

I think anything we lay out at this point should be something that the whole community sees and have a broad discussion. I think it's going to go, as you indicated, well past this property.

>> Yeah. And then my continuing concern is that this is not inside the city limits. It's not going to help with the rising costs of housing that's in the city limits, but yet we'll be putting money toward underwriting or reducing the cost of the housing in this part of town and all of us will be shouldering that cost well into the future. I know we're going to move forward on this. I am still hung up on the fact that this is in the hta

(phonetic), and if it were closer into town and we were having conversations about gentrification and people were closer to town, it would be an easier lift for me. So just memorialize that concern that I continue to have.

>> Thank you. Any further discussion?

>> Yes.

>> Yes?

>> I just want to circle back to the few waivers. I'm just a little -- is Mr. Jennings here?

>> Uh-huh.

>> I guess I want to -- I thought I understood that there were still a few waivers in the ordinance as it relates to rentals. I know this question has already been asked, but what I'm hearing now is different than what I heard this morning.

>> I'm sorry if there was a miscommunication. Is original question to me was if the fee waivers associated with multi-family, what would that be worth? And based upon information we had in February from the developer, the total amount would be around 8.4 million. If the 25% fee waiver happened, then the utility would be looking to receive about \$6 million of that. With the mayor's modification to the existing -- to the ordinance, because of the provision in that section B, it wipes out all fee waivers.

[3:33:49 PM]

So there are no fee waivers. If council decides to accept the mayor's edit to the ordinance, then there are no fee waivers applied to pilot knob related to smart housing or any other fee waiver that I'm aware of. I'm sorry if there was a miscommunication about that with your staff.

>> Yeah. Thanks for the clarification. So where in this amendment does it explicitly say that?

>> If you take a look at the ordinance that has on top of it as passed per amendments 3 dlsh 316 resolution. Down at the bottom, page 7 of 20. If you go into B, owner occupied housing, go down to no. 2. It talks about permanent affordability. It allows for 100% of eligible fee waivers for all residential units. So that was the operative clause there in that ordinance that was passed in December that said, not only for owner occupied housing but for multi-family, anything else that was residential, you would have 100% fee waiver. So that's what was in play before. There was discussions about that the developer was willing to modify the fee waivers for multi-family for 100% down from 25%. That was during the presentation of last year that the developer had in front of council. So that discussion was going on. As I understand it, and I think city legal would verify my understanding is that the amendment proposed to this particular ordinance that the mayor is doing when he replaces section B, owner occupied housing, with his language, the language related to any kind of fee waivers is gone.

[3:35:56 PM]

So therefore there are no fee waivers associated with this pud. Is that correct?

>> Yes. Section B in its entirety. B-2, that is correct. It's gone. B replaced it in its entirety. Mayor pro tem?

>> I'm reading on that page. Under this provision of the ordinance and this program, landowner is eligible for fee waivers.

>> Yes, ma'am, but the mayor's language replaces all of that. And in his language, it does not that phrase in there --

>> Got it. And for the audience, if there's any question, this is the ordinance. It's a very long ordinance. As I read this last page, if a funding mechanism for owner occupied affordable housing is not approved in subsequent action, no agreement is reached with the landowner or adopted mechanism -- I think there should be an is there. Is allowed. Is that how it should read. If there's not an agreement or there's not a mechanism -- or there is a mechanism disallowed by a court?

>> I will let the scrivener in decide if the is is appropriate.

>> Are there three different?

>> One is if the city council, if no agreement is reached. If we adopt something and it's disallowed by a court, then you have what happens. If it's disallowed by a court for any other reason, then you end up with what is the fall-back position, which is what was in the old agreement.

>> All right. Thank you.

>> Okay. It's been moved and seconded. Further discussion?

>> Mr. Casar?

>> I want to reiterate a little bit on two points.

[3:37:58 PM]

One is, I think, this council did pass a resolution showing our intent that we want the affordable housing component to be able to be used all over the city. And so I know that they've talked about the opportunities here, and there are opportunities in pilot knob because of our scarcity of land to do good and land trust there is, but I just want to reiterate and memorialize, as Ms. Pool did, we with talk about how this development is generate housing opportunities in other places. That's a good thing. And hopefully it's a model for us to keep working off of. Second, I understand some people's trepidations with the waivers, but I'm confused by it somewhat because I think that it's so important for us to use all tools necessary to generate affordable housing and agendas we regularly dedicate bond funds and other money directly from the budget to make sure we get affordable housing. I see fee waivers as the same thing. Now, if we're giving away for too many for how much we're getting or if it's an unreasonable use of fee waivers, I understand, but it may not sound as good as investing bond dollars. Fee waivers sounds a bit ick year. I would just urge again. We're not making this decision today, but I would urge us to leave fee waivers on the table as if they're reasonable, a strong and viable option for generating affordable housing, we need to leave everything on the table from utilizing our utilities and fees and city dollars and zoning capabilities, all those things to generate housing.

>> Okay. Just by way of housekeeping, Mr.

[3:39:59 PM]

Pena signed up to speak. I don't see him here. That would be all the public that had signed up. Ms. Gallo?

>> You know, the smart housing program fee waivers were established by previous councils. I really look forward to this council having future discussions to find alternative ways, other than fee waivers, to incentivize the production of affordable housing. I look forward to that discussion because I think we do need to find alternative sources. I'm going to support this because we're not committing to the fee waivers for the affordable housing requirement in the original agreement. I thank you, mayor, for putting that together for us.

>> Thank you. Further discussion? Mr. Zimmerman?

>> Thank you, Mr. Mayor. I just want to refer to the amendment here, page one, section four, part C on the cap on the equity that could be achieved on the resale. Maybe it's a question for staff. There's a right of first refusal here. Just to help me understand how this works and why this is here, I mean, let's say that there was an equity realization of \$50,000 but according to this cap, the property, right, would have to be sold at \$50,000 under market. So then the housing corporation has a right of first refusal. So they could purchase the property, right? According to section D. So if the city housing corporation chooses to buy that property, and there's a \$50,000, you know, market of equity there, what is to stop the city from turning around and selling it at the market value and taking back that profit for the city? Is there something in here that stops that?

>> Gina topic with neighborhood housing. The ground lease prohibits the property from being sold at market.

[3:42:05 PM]

>> Okay. So then could I ask why this provision is in for the city to -- the housing corporation to have right of first refusal? Why is that in there? Sometimes we need to purchase the property and resell it to an income eligible buyer.

>> Why couldn't be it sold to an income eligible buyer without being purchased through the housing corporation?

>> It could.

>> So back to my original question. So why is the provision here that gives you the right of first refusal?

>> There may not be a buyer available at that particular moment.

>> Okay. Thank you.

>> Any further discussions? Many Garza?

>> I am supporting this. I appreciate the time and flexibility this gives us to try to solve the issue of maybe not giving fee waivers but allowing

-- I think this council has done a good job of really trying to be aggressive at solving our affordability crisis. I absolutely understand and respect the concern that this is in the etj and maybe the thought that this isn't helping austinites, but I have to point out that the families that are buying houses in this area are essentially families that have been gentry phied from Austin. They are families -- I know a couple of them. They're renting in Austin and they can't afford to buy a house in Austin. So they, like everybody else, want the American dream of buying a home, and this is the only place they can go buy their home. I just think that that needs to be discussed as well. These are not a bunch of outsiders coming in and the policies being discussed here are helping a bunch of outsiders. These are middle class families that want to own a home, and they can't afford to do it in Austin, Texas. I really look forward having the discussion on what we can do here and use this as a model hopefully for other puds or for other housing developments here in Austin to keep our middle class families here.

[3:44:14 PM]

>> Council member Garza, thank you for your assistance in helping draft this amendment. Council member Casar as well. Any further discussion? Those in favor of passing this as amended, raise your hand. Those opposed. Zimmermann voting no. Those abstaining.

>> -- Abstains. The others voting aye. The other amendment was to section 8 part B in its entirety as well as far as changing out part two of H in part 12 or something like that. In part 12. Okay. Next item. What about item no. --

>> Mr. Mayor, point of order. Do we need to vote on the item?

>> The motion I made was for the item?

>> The motion I made was for the item.

>> This may be what you were getting to, but I think we have annexations on the agenda that might move rapidly.

>> I think that's where we are. Item no. 19, the entry da annexation. Staff here to walk us through these?

>> The planning and zoning department. Item 19 is the entae da annexation. It's on your agenda for approval at all readings. Council member Houston has an -- to present

>> Is there a motion to approve before we get to the amendment. Would you like to make a motion?

>> I would like to make a motion. Motion to move approval of first reading and postpone to January 26, 2017, for city council to approve on second and third readings.

[3:46:19 PM]

And this has been discussed with the applicant.

>> Okay.

>> With the property owner.

>> The property owner.

>> If I can get a second, I will speak to that.

>> Okay. Is there a second? Ms. Pool seconds that.

>> This buys us some time. Both the city and the county are working on trying to craft the deliverables for the public improvement districts, and so those agreements are still influx at this moment. I talked to county staff. They era in agreement with the postponement. This is just giving them more time. If they get it done before that, they can always bring it back, but this is just giving them additional time.

>> Does this run into the same issue we had with that other one with respect to needing a final action today because of the 75-daytime limit? Or it pushed us back a year?

>> Yes. If we postponed this item, it would cease the annexation, just like we spoke about earlier. By taking first reading action, the law states we have it be within the first 90 days of the the first reading. So we can pass the first reading today and bring it back in January for second and third readings possibly. However; I would ask when we do bring it back in January, if there were a postponement made at that time, it would effectively kill the annexation as well. If we're going to bring it back in January, I think the decision will have to be made on that date because any date after that would cause the annexation to possibly be taken off the table.

>> So we could take first reading motion. It would leave the possibility of bringing it back for a second or third reading in January or alternative prove it on all three readings today, and the annexation would take place on December 31st.

>> Okay.

>> And, mayor, our city staff has said they need to look at our public district policies and deliverables. I don't think they're at a point now where they can say that it's been baked enough to say, let's make this a go.

[3:48:23 PM]

And then there's a coordination with the county. This is a county public improvement district. This is not ours.

>> Okay. Been moved and seconded. Any further discussion?

>> I just have a quick question for the applicant. I understand that the applicant had wanted 90 days, but if it comes back in January, do you think that will give you sufficient time to work with Travis county?

>> Thank you. Steve met calf on behalf of the owner. Of course we would like longer, but is that the last time before we run out of time? I think stat torelly that's at that time.

>> Would you like us to give you the 90 days, though, as opposed to bringing it back in January. Or is that 90 days?

>> I think that's it. That's the last day we could bring it back and be within the 90-day window.

>> Because of when the meetings are set.

>> Right.

>> Okay. Thank you.

>> I would just ask that in January, postponement would not be a possibility. We'll have to make a decision in January, either to annex or not annex, and let him pursue with the idea.

>> So this will be brought back at the first meeting in January, which is at the end of the month?

>> Yes.

>> Okay. Thanks.

>> Any further?

>> Further discussion on this item. Mr. Zimmerman?

>> Thank you. Again, the applicant didn't request annexation, right? Was this city initiated annexation?

>> This is city initiated annexation. What the owner of the property is requesting, or the owner representative, they wish to pursue the idea of a county improvt. They're asking to posble defer or not do the annexation while they consider the possibility of pid. We're bringing it for for annexation because it was in our annexiation program.

[3:50:28 PM]

They're asking us to do first reading only so they can pursue the pid.

>> So back to the question we had earlier, criteria. You mentioned the city's criteria for annexation. So property owner consent was not part of that criteria?

>> It was not.

>> Okay. Thank you.

>> Mayor?

>> Yes.

>> Mr. Rustover, there's nobody out there. So --

>> That's correct. The property is owned by a developer.

>> Sorry. A developer is a property owner, right?

>> He is.

>> Okay. Thanks.

>> Any further discussion on the motion to approve this on first reading, second reading on January 26th? Our closest date to that date.

>> January 26th, we'll bring back the second and third reading or something may be presented by an alternative proposal because of the pid.

>> No discussion? Those in favor, please raise your hand. Those opposed.

>> Troxclair and Zimmermann voting no. The others voting aye. This is approved on first reading and we'll come back to it on January 26th.

>> We could do them all under one motion, if you would like. 20, c76 -- 005. We already discussed the Mooreland condition earlier. 20160007, the smithfield parker annexation. C23008, the upper east end annexation. All of these are ready for approval. The public hearings have been conducted and closed.

>> The motion? Ms. Houston?

>> I have a question. The effective date is different on these than they have been. The date is 12/15, instead of 12/31. That means there's a two-week gap there that someone would owe taxes for.

[3:52:31 PM]

Can we get an explanation of why it's a 12/15 and not a 12/31 date. Otherwise you're subject to two weeks of taxes. That seems kind of weird.

>> The taxes are based upon the full year that a property is in the city's jurisdiction. So any property that's not in the city's jurisdiction on January 1st does not have to pay property taxes for that year. Is to the property taxes of these annexations would take effect in the 2017 tax year. So the two weeks in December would be irrelevant.

>> Okay.

>> Been moved and seconded. Any discussion? Those in favor, please raise your hand. Those opposed? Troxclair and Zimmermann voting aye. Those items pass. Okay. I have two items that, again, we can't consider until after 4:00. That gets us, then, to item -- we said we would call that at 4.

>> Mayor, I think they're all here, though.

>> You okay calling them?

>> Uh-huh. I think everybody is here.

>> Okay. We'll go ahead and call that. We'll call it but we won't take a vote on it until 4:00 because we said this morning we wouldn't hear that until 4:00. So I want to make sure no one shows up late. We'll food and -- we'll go ahead and start. Staff here on item no. 2? They were in the back? Come forward.

[3:54:40 PM]

>> Do you want to come up on no. 2.

>> I pulled it. It wasn't staff's request. If I may do that.

>> I pulled this because last time we were here, the resolution had one change, and that was change 2 to 1 and asked the city manager to come back. The public comment time was open, and people testified on that one amendment. Subsequent to that, there were three amendments, substantive amendments, that were made to the original amendment motion and resolution, and I would like to have time for the public who are in favor of sterilization to speak to the amendments that were made and that are currently in our back-up.

>> Okay. We have several people that have signed up to speak on this. We can certainly take public testimony. The first speaker would be Jenny Chen. Is Jenny Chen here? Okay. What about pat vas TREs (phonetic)?

>> Mayor, David king is here. He said he would give me his time.

>> And you do. You have six minutes.

>> Okay. Thank you. There are four of us here from

-- advocates for pets. We respectfully request that you postpone item 2 on spay, neuter, and first impoundment, and please don't vote on it today. We're for spay neuter on first impoundment, but it was amended with three significant amendments that we had not seen until right before you took the vote on November 3rd.

[3:56:41 PM]

We request that you give us and the community more time so we can discuss and propose changes to section two and section three of the amendment that we only saw for the first time one week ago. We have been discussing spay neuter on first impoundment with the amendment advisory commission, with the human services committee, and with the city council, all of you, since January. No one has brought up such major amendments until last week. When we saw them, we didn't have the time to speak to them,

and we request that you give us that time now. Here's how we would like you to change section 2. Section 2 says that --

[audio difficulties] Section 2 says that an impounded pet would not be sterilized under spay neuter for first impoundment if prior to the three-day hold, the owner objects to sterilization. While we would have liked this to have passed without this profession in at all, now that you've submitted this amendment, what we would like you to consider is that you'd have an advantage Wang that says -- Ed a language that says if the owner objects to the pet being sterilized, the owner must pay the maximum fine allowed by city code for a loose dog. We also request that you change no. 3 in the proposed code change. Section 3 would prevent the shelter from sterilizing an impounded animal impounded for the first time if the shelter is full. Again, we would like you to pass spay neuter on first impoundment without this because spay neuter on first impoundment is originally proposed was completely permissive for the director to make decisions. So we don't think you need to pull this out. However, if you would like to pass it with this provision, we would like you to amend it to state that the shelter may sterilize an animal if there are funds available and the unclaimed spay neuter deposit fund and if those funds can be used to move the animal to eh MASN pet or another vet clinic or boarding facility.

[3:59:06 PM]

In other words, we're asking you for some pretty significant amendments to no. 2 and no. 3, but you also kind of hit us with these new amendments that we had not seen until last week, so we think it's only fair for you to make that change. One of our members who was here but had to leave is Tara Stermer

(phonetic). She spoke last time, and she couldn't stay here today until now. I have some written comments from her that I would like to read into the record on her behalf. My name is Tara Stermer. I live in east Austin. I'm for spay neuter on first impoundment. It was amended with three provisions we had not seen prior. We're asking for postponement so we can review discussed changes to no. 2 and no. 3. I would like to discuss no. 2. We understand the owner's right to decide if their pet is spayed or neutered, but we also hope you agree that following the city code 3 -- 7 -- 2 should be part of the guidelines. The city code states a citation with the maximum fine of \$500 is to be issued for an intact unrestrained pet. This fine is supposed to pay for our animal control officers, time to get the animal, for trucks, for maintenance, for feeding, for sheltering of the pet. I request that we offer to waive that \$500 in return for spay neuter. This gives the. This also takes the pressure off our taxpayers by giving owners the costs. Thank you for your time and for considering my request. Our request. Thank you.

>> Mayor Adler: Thank you.

[4:01:10 PM]

Tara Stermer is no longer here, you said? No.

>> Mayor Adler: Liz da Carasco. Will McKinney is on deck.

>> I'm Liz Carasco and I'm not only a member of spay neuter advocates for pets, but I am also thoroughly involved in spaying and neutering animals, mainly dogs in Zimbabwe. I travel there twice a year. I am very knowledgeable on the issue. However I am telling you that I am for spay and neuter on first impoundment as presented on November 3rd, but then it was amended with three provisions that we have not seen. Also asking that you please postpone this item so we can review and discuss proposed changes. Number 2 and 3. And please do not vote on this today. In regards on 3 considering the shelter operates at capacity, as we all know, we can move forward and consider the funds already allocated in spay and neuter deposits from the Austin animal center to transfer unaltered animals to emancipet, boarding or a pet clinic, to keep them -- to keep from using the excuse of lack of space. Let's

be proactive with spay and neutering to start a necessary step to help reduce the overpopulation of pets. By doing so we help all of the communities in Travis county and the city of Austin and it also alleviates the crisis the shelter is in. You should also please take the time to look at our neighbors ordinance in San Antonio who had a very similar ordinance to ours regarding spay and neuter on second impound, yet three years ago they took the initiative to change it to amend their city code.

[4:03:12 PM]

Amending chapter 5 of the city code requiring animals and the sterilization of reclaimed dogs and cats following the first impound. Thank you.

>> Mayor Adler: Thank you.

>> Good afternoon, mayor, mayor pro tem and councilmembers. My name is will Mckinney. I live in district 10. I am also a part of snap. We are for spay-neuter on first impoundment, but we ask that you please delay voting on it until November third for the reason that it was amended with three provisions that we had not seen before the meeting. We are asking for a postponement so we can review, discuss and propose changes to amendments number 2 and 3. Regarding amendment number 3, we don't believe it is necessary it is necessary for boarding and kennel facilities. No boarding space would be taken up when aac is full. I thank you for your time and service.

>> Next speaker is Phu Quinn. Adept quintana.

>> Hi. Thank you. I am a member of snap as well, spay-neuter advocates for pets, and I also have a rescue here in the Austin area and I am in favor of postponing as well. That being said, I want to say that I am so proud of our community. I was mere when we fought for no kill and we fought hard and every time we were in those long late meetings. It was cold and rainy outside and I always felt like I was surrounded by greatness and I was always feel like that for Austin advocates even though sometimes we're on opposite sides of the issues.

[4:05:16 PM]

But yeah, they are great. Now, I know we won that and it was amazing and a huge celebration in our city and I just find it tragic that with all of that work we now have a shelter that often closes its doors to intake. Because we have just too many animals to intake. I know there are many steps to have no-kill succeed. I'm 100% not ever advocating for mandatory spay-neuter ever. I'm also not advocating for killing. What else could the answer be? It is community outreach, which I love our shelter director is planning that and I think that will be a big success. Also education. Yes, that's happening in our community. We need that more, but that's a big step. But also spay-neuter on first impoundment at the director's discretion. Nathan wingrand is a leader in the no-kill community and he says high cost spay and neuter will quickly lead to fewer animals entering the shelter system allowing more systems to be allocated to saving lives. This is completely true. It is a common sense equation. The more animals we spay and neuter the fewer unwanted pets are needing homes in our communities. As a rescue I wish there weren't any need for shelters. I wish all animals were treasured and loved unconditionally forever and ever. I know that's not realistic. So we need to find answers in our community to solve this. A national expert on dog bite and dog caused deaths concludes that dog caused deaths are nearly always caused by unsocialized backyard dogs who have never been cared for, loved or treated responsibly by a loving owner. There's no logical evidence to such that such an irresponsible owner would be swayed by a fee or fine. I agree, they won't. We need to have the tools in our tool chest to make these decisions. Many loose dogs in our city come from situations like this. They bust out of their yards and they can be a danger to other pets. They can be a danger to our citizens.

[4:07:17 PM]

And their in danger themselves. So what I'm saying is we need to spay and neuter these dogs while we have the opportunity. Now we do it on second impound meant. Yes, that's great, but with closed shelter doors they don't necessarily make it in for second or third impoundment. Even if they do, between second and third impoundment how many animals are they contributing to our community? Possibly thousands. We must have the tools at our director's discretion --

[buzzer sounds] A final thing. We need our pets to live healthier lives. This does not hurt low income people. We need to be proactive rather than reactive and reactive is shutting our shelter doors.

>> Mayor Adler: Thank you. John Hubbard.

>> Good afternoon. My name is John Hubbard. In the interest of full disclosure, I'm founding partner of a lobbying company at the capitol. I'm not here as a paid lobbyist, but here as a private citizen. And I want to thank Ms. Houston for bringing this issue forward and also have the first time to testify in front of the city council. Appreciate the opportunity. It may not come as any surprise, but I am here also asking you to postpone consideration of this for some period of time. So we can give a little closer look at these things. I think the policy that actually came out of committee was a good policy, it was flexible. It allowed discretion on the part of the staff. And I think the amendments that got put on, they're not death to the policy. But there is room for improvement. And what I'd like to see is a maximum fine for the folks who are choosing not to have their animals sterilized.

[4:09:28 PM]

The frozen that is we clearly have an animal population problem in Austin. That's the reason we have managed intake into our facilities. If we don't do this we're only addressing one side of the coin. We're addressing the animals coming into the shelter, but not preventing the animals from coming into existence in the first place. Sterilization is something that actually does help reduce the pet population. The third amendment what I would like to see there, if there are funds available in the spay-neuter deposit fund that we use them for that exact purpose and that we sterilize the animals coming in on first impoundment. That's what must not be used -- that's what the money is used for. That's really all I have. Thank you very much for your time and good luck with all your decisions.

>> Mayor Adler: Thank you. That was the last speaker signed up to speak. Ryan Clinton signed up for the in accordance in backup, but did not ask to speak. That gets us back to the dais. Ms. Houston?

>> Houston: Thank you, mayor. This came up because there was a referral from the mayor's office last year and it's been through various commissions and committees. My issue is if you look at the data I have so many loose dogs in district 1. We looked at the data last time. So when one of these amendments came out about ownerships of pets, I asked legal to look into what other issues that ownership issue might effect such as microchipping because when a pet comes into our facility we microchip them as well and so I'd like to ask legal to come up and talk about the ownership piece. I really wanted this to be postponed because the attorney working on this had to leave so that's why I really wanted it to be postponed.

[4:11:33 PM]

>> Hi, mayor and council. Kerry grace of the law department. Councilmember, you might wish that even more once I try to answer some of your questions, but I'll do my best.

>> Houston: What are the ownership issues that might be found in the code that affects animal services, like microchipping. Do we have to get the owner's permission to microchip?

>> I don't know what the practice is.

>> Houston: I want to know legally what it is.

>> Even though there's a three-day ownership period and we microchip that animal and the owner comes to reclaim it, I think we would be probably on pretty solid legal footing doing that. The risk would be lower, would be low to us to do that.

>> Houston: Thank you. We've been kind of working on this so we're both out of sync because the person that has the information is not here to really talk about it.

>> We've worked on other issues together, but not this one.

>> Houston: Thank you so much. Then I have one other comment or question that I sent out too late for council Q and A. And it's in section 3-7-2 of the city code that was quoted earlier there's a maximum fine of \$200 if the animal is not sterilized. If there's an animal services officer here my question was how many citations were issued in the past two years and how many of those animals were not sterilized?

>> Hello, I'm Tawny Hammond, chief animal services officer. We had our other officer here and he had to get back out into the field. He was going to address that specifically. To drill down a little deeper we needed a little more time, but one point I do have some information to answer that question.

[4:13:35 PM]

One point of clarification is the fines are assessed by a municipal court judge, not by us. And that money goes to the state. A large chunk of it, to cover court costs. That does not come back to animal services in our operating budget at all. That goes to the general fund. As far as citations, what we were able to pull yesterday was the number of citations, but they are -- it's not the number of animals. For instance, in tax free 1,199. In FY15 and 16. However, that could be one animal with four citations. So we're not able to extract a specific animal. We're able to extract the citations. So that with R with need more time to get you an accurate number if we're counting animals and not citations. One animal could be several citations.

>> Houston: So let me make sure I understand. One animal with a unique ID number could come in and be issued four citations?

>> Could be. Multiple.

>> Houston: Multiple citations.

>> We need to drill down deeper if we're going to figure out how many animals. That's what we were able to pull and I don't think it useful to what you need.

>> Houston: Right. Thank you so much, Ms. Hammond. I appreciate that. Mayor, I would ask that we postpone this and give both legal staff and animal services staff. And I see everybody shaking their head over there, but I get it, but I think the issue here is that there was substantive changes in the way the amendment was drafted and I think we need to have opportunity to give the opposite side an opportunity to come up with some additional amendments to that. So I would like to move to postpone until the first meeting in December.

[4:15:37 PM]

First meeting in December, which is December the 1st. And legal said that would give them enough time to look to make sure they have all the T's crossed and the I's dotted.

>> Mayor Adler: Do we have a motion? There's been a motion to postpone this consideration of ordinance until December 1st. It's been seconded by preliminary -- by Mr. Zimmerman. Any discussion?

>> Houston: Mayor, I just remembered you're not going to be here on the 1st. Who else is going out of town? Could we move that to the eighth of December when people are back?

>> Tovo: I was just counting. If we move a whole lot of things off that date --

>> Mayor Adler: Looks like there's three of us that -- three of us, troxclair, Adler and Renteria. It been moved to change the item to December 8th. Is that okay with you, Mr. Zimmerman? Any objection to that change being made to the motion? The motion is changed. Councilmember Garza?

>> Garza: I'm going to speak and vote against a postponement. And I want to speak to the process as well and the reason why I'm speaking against the postponement. This was brought through the health and human services committee and I in fact made the motion and I said last time I didn't understand it totally. What was discussed at health and human services was its permissive, it's permissive. And again like I said last week I thought it was permissive on both ends. Really I thought there wasn't much of a change. I didn't understand why we were asking for a change. If it's permissive, it's but there seemed to be some kind of concerns and I did hear this needs to be mandatory. I also kept hearing it's permissive. I thought it was permissive on the owner's side as well.

[4:17:38 PM]

Had I known what I known now I would not have made the motion that I made that brought it before the council. I don't know what the vote would have been then. I'm one of three that was there that day. But it might not have even come to the council had I known what I know today. This concern about major amendments, it's interesting because the amendments that were made essentially keep the current practice in place. There are two ways this could have happened. I could have proposed amendments and we could have voted on that or I could have proposed to vote down the changes. So in fact, that is what I'm going to propose today is that we don't postpone and we just vote down the changes and leave the policy as is and I don't know why we're looking to change it. I will be against a postponement and asking that we just keep the current policy in place.

>> Mayor Adler: Ms. Houston?

>> Houston: Now that the ownership issue has come up that's another issue. The animals we're talking about are not animals that have owners so the people who have secure animals and they take their animals to get them sterilized, that's not who we're talking about. We're talking about loose, roaming dogs. I keep trying to make that distinction in this conversation. We're not talking about loose reaming dogs that are a danger to not only themselves, but to children and other animals. And the only thing I can see to do is to do more spay and neuter so that they don't continue to breathe and continue to have more stray animals.

[4:19:39 PM]

So I want a postponement so those for and against can have a conversation. The other day we talked about shared reasons and position specific. Well, this issue is always position specific. There's no way to come together and kind of come up with some reasonableness to how we treat our animals in the city, other than we know that we're a no-kill, but the fact is that parts of our community are -- education is not happening so we're having a difficult time in parts of our community with dogs that are starving, they're hungry, they're being bred indiscriminately because they're out in the street. How do we keep those things from happening and sterilization is one way we can do that. Education is another way and I hope at one point that will be a robust kind of communication into the community, but it's not there now. I just want something -- I just want them to get together to have something to agree on.

>> Pool: If they are running because we don't have a process with our animal services department, if the dogs are loose and running and have an owner that's what we're addressing here, so it sounds like you're more concerned not about the ones who have owners so I will continue to reiterate that the people with the animals have the right to say no, don't alter my animal. We have to give them that option. You're talking about loose dogs that don't belong to anybody, correct?

>> Houston: That was the original premise, the loose dogs that don't belong to anyone and when we try to take them to the shelter because of managed intake we're not able to turn them in.

[4:21:47 PM]

And then they're turned out into the community. We're looking for another way to get them sterilized. Emancipet can do that.

>> Pool: Could we get staff to respond to the piece that councilmember Houston has said. We pick up a loose dog, doesn't belong to anybody. What happens to that animal?

>> For three days the dog is held and on the fourth day that dog becomes property of the city. When that dog becomes property of the city, before it leaves for adoption, it would be sterilized or the new owner would sign an agreement. If the owner comes before the fourth day to reclaim their pet, we counsel, we educate, we offer resources and we talk to them. And we also do not microchip pets that aren't ours.

>> But only the category of loose dogs that don't have an owner that are out running loose. So we pick them up and we hold them for three days. On the fourth day we sterilize them. What happens to them at that point?

>> If they're sterilized, how long till they become our dog?

>> Pool: And they don't belong to anybody. They're adoptable.

>> If they are sterilized prior to adoption, nothing. They're adopted. If they are adopted prior, there is an agreement that the new owner has to sign that they will have them compliance with state code.

>> Do you ever release them back on the street to run free?

>> No, we do not.

>> Pool: Do we have animal rescue groups that are out there helping when we have overflow?

>> Yes, we do. And and I want to reiterate that puppies and kittens are not at risk of losing their lives in our building. When we're at capacity, really what's bringing us to capacity or to restrictions, people are not reclaiming their pets, we're trying to increase adoptions. That's at the root of the capacity.

[4:23:51 PM]

>> Pool: Thank you.

>> Mayor Adler: Mr. Zimmerman first? Mr. Renteria?

>> Zimmerman: I'm hearing different things. What I hear from councilmember Houston is she's concerned that animals are coming in and we're full, we're at capacity and there's no place to put them so the three days is invalid because if there's no place to put them you can't keep them for three days. I keep hearing her say that. When it's full and you get a bad-behaving animal, a wild animal, no owner, there's no place to put it.

>> If an animal protection officer brings a pet in that they impounded on the street it comes into the animal center. The only time we're doing managed intake is for convenience surrenders and people bringing us their pet. So if they're surrendering their pet or if they found a pet, if they can keep that pet until we have space, that's when we're doing managed intake. An animal protection officer is not ignoring a problem when we're at capacity. If there's a dangerous dog or a dog in the middle of the highway or they're suffering or they're menacing people and there's a safety issue.

>> Zimmerman: Help me understand, if it you don't have a place to put it, where do you put it? Are you saying there's never an instance where there's a wild dog and you don't have place to put it.

>> If we have a safety issue, animal protection officers respond to that. They do not leave that dog in the community. That dog is brought in and we figure out where to put it. We have emergency fosters. We do do adoption promotions. We work with rescues to make space in the kennels. It's a constant process.

>> Zimmerman: So councilmember Houston, is that your understanding that the wild dogs always get taken in?

>> Houston: It's not my -- that's not my understanding. I've had people call 311 and report loose dogs. It's usually a three-day turnaround and by that time the dogs are gone.

[4:25:53 PM]

>> That is why -- that is why I requested additional animal protection officers in my budget request because we do not have enough animal protection officers on the street to answer these calls. Priority one calls are our priority, our first priority, public safety calls. If it's related to public safety we absolutely respond to that. Many times we find out dogs are going back to their property. If we can get that dog back on their property and we can identify the owner, that's when we do counseling with them, replace gate, fence, let them know about the citation, issue citations. We issued an average of 2,000 citations last year. We're not ignoring it, but if you have three officers for a nine hundred square mile geographic area, you're going to get to your emergency calls first, assisting the sheriff and Travis county with emergencies. Public safety issues, a dog that's hurt or injured or a cat that's hurt or injured. So it's not a matter of not doing it. It's a matter of can you respond to that. >>

>> Zimmerman: To summarize, when you say the shelter is at peace you're saying if you want to voluntarily bring something in to the shelter, please don't do it because we're at capacity. But you're telling me that the only thing that -- or emergency. The only thing that stops you from picking up all these dogs is a lack of staff to drive around and collect them?

>> Resources are part of it because we don't --

>> Zimmerman: Responding to 311 calls. That's what Ms. Houston said is her constituents call 311 and nobody comes.

>> That's number one reason, but if we did have enough staff we would still do counseling with the owners or neighbors to correct that problem. The idea is to keep the pet in their family. And with their family rather than bringing them into a shelter. Where they may not reclaim the pet. I mean, this is a large part of no-kill equation. This is a large part of what's happening for five years. I just want to -- I want to reiterate that we have a very -- I understand the concerns.

[4:27:58 PM]

I absolutely do. We want to address those concerns. But we have a very safe community. Nationally nationally compared to other communities it's a very safe community for pets and people. I'm not marginalizing anybody's concerns because we do want to be doing that outreach. We do want to be doing that education. We do want pets and people safe. We'll be doing more. That.

>> Mayor Adler: Councilmember Renteria?

>> Renteria: I heard you say on the fourth day you spay your animals there? Like it's been there three days. On the fourth day what do you do with that, the loose animal? Not everyone -- not every dog, the owner comes right away. And not all of them wear their collars and tags and all that. What do you do on the fourth day.

>> We have two surgery tables and the bulk. And our partner, emancipet . Is.

>> Mayor Adler:.

>> Mayor Adler: It's been seconded to move this to December 8th. Any discussion? Those in favor of postponing this, please raise your hand? Mr. Renteria, Ms. Kitchen vote that way. Ms. Houston, Mr. Casar.

[4:29:59 PM]

Those opposed raise your hand? Garza, Gallo and the mayor pro tem. Three. Ms. Pool. 7-4 this postponement pass to December 8.

>> Gallo: Can we take up the champions?

>> Mayor Adler: Not only can we, but it's the next one.

>> Tovo: Mayor, we did have two issues that were pulled from the consent agenda. The zoning consent agenda this morning and I had said I just had a couple of quick request questions. I don't know the extent of the questions that councilmember pool had. Items 42 and 53. 42?

>> Pool: Mr. McComb, thank you for sticking around. Quick question. The picture of the home that you showed that has been partially demolished, the roof is missing and that the mayor pro tem was talking about earlier today, we probably are not able to put that picture back up. And you said that the roof is going to be replaced soon. But it has been missing its roof for a couple of months.

>> The process I am authorized because this is an item that is not related to the Dabney house, which is currently located on 901 Shoal Cliff Court. Austin Ventures is the owners, David Coney. And he has authorized me on his behalf to explain the following. The house was very large. Getting it to Shoal Cliff Court you have to go up San Pedro Street which has U.N.O. Projects and street scapes on both sides.

[4:32:09 PM]

So he hired a very prominent restoration architect to assist him before they ever started in disassembling the house into components that could be brought up the street and placed on the lot. They have brought all the pieces up and they got the final one up there in August. They are reassembling all those pieces and it is -- though it is said to be a house move, it's actually a reconstruction in large part. And they are putting the roof on it as we speak. The trusses are going up. And so it will be completely restored. There's been a considerable sum of money spent in purchasing the property, moving the house and hiring about Nolan to oversee every aspect of this from start to finish.

>> Pool: Great. Thank you. And I appreciate you walking through. I don't think when we talked about it a couple of months ago that we -- or maybe the owner didn't realize he was going to have to disassemble it and reassemble it. My question goes to the fact that it doesn't have a roof on it, it's been raining like crazy for the last couple of months. And I don't know if you can answer this, but when he does get around to replacing the roof, all the rain will have gone inside the walls and there will be --

>> It's all going to be restored just like it was. So actually, you're going to have a -- a somewhat reproduced house. I've done this and had a house sit in the rain for several months as well. And we've had to replace floors and that's something you have to go through, but you have to get the way it was before when it was originally built with original materials and it will be a great asset to the community.

>> Pool: Good. That's really the piece that I was most concerned about because our approving it to be moved was under the presumption that it would in fact be restored. And my worry is that it will start to deteriorate and we will get a request for demolition because the house has deteriorated beyond renovation --

[4:34:14 PM]

>> No. Not with Mr. Know land being hired and under contract. It is set to be restored by August 1st of 2017. So that's the instead. Too much money has been spent on saving it. I don't have any doubt it will be saved.

>> Pool: That's what I wanted to add to what the mayor pro tem was talking about today and make sure that was part of the public record.

>> I did bring the owners of the 507 down here and they are waiting to speak if you have any questions about them. Thank you.

>> Pool: I think you've answered my questions. Thank you.

>> Mayor Adler: Is there a motion to approve item number 42? Mr. Renteria makes a motion. Is there a second to that motion? A second to that motion? Hold on? That was the one we heard this morning.

>> Mayor, that was on first reading.

>> Mayor Adler: Approval on first reading. It's been moved. Is there a second to the motion? Ms. Garza seconds it. Any discussion? Ms. Houston?

>> Houston: I'm just kind of leery about removing the age until we have it in place. I thought they were going to be together. I thought we agreed to move one and it's still in the process. I would hate to remove the H and not have the restored building put on the lots. I don't know what they're going to be building. Is this a building, construction? I'm not sure why this is a big deal?

>> Mayor Adler: This is to remove the historical and to zone it --

>> A little history quickly. On the site where the Dabney horn used to be on Rio grande street there was a restrictive covenant that prevented them from moving the house, as well as homework zoning that was put in place years ago.

[4:36:27 PM]

I can't remember if it was last year or the year before last year, we had an item to amend that restrictive covenant to allow the house to be moved to the site it's located at now and the council approved that. However the H zoning stayed on the property. Since then the house has been moved and that's why the staff was not willing to consider moving to H until the house actually moved. The house has been moved. A preliminary site plan has been approved to build a 17 story apartment building under the U.N.O. Story of that site so that hole has already been dug. And now the applicant is waiting to get a site plan in on the site of the hole. However, if it has homework zoning in order to get the site plan approved would have to go to the landmark commission for certificate of appropriateness because the property still has H zoning. Staff does not believe it makes sense to take a brand new 17 story apartment building to the landmark commission for their review. We do have a restrictive covenant at the site where the house is now located stating that the house cannot be demolished or torn down there and we do intend to do homework zoning on this site where the new house is located, however the staff prefers to wait until the house is modeled to be sure it is reconstructed to its historical previous appearance. So we will either be insisting that the applicant bring an historic zoning case. We just feel that right now there's a site plan being held up because of the H zoning.

>> Mayor Adler: And that's a subsequent action, not this action. I will vote in favor of removing the homework zoning from a site that's clearly not homework anymore. Mayor pro tem?

>> Tovo: I didn't support the swapping and whatnot initially, but I guess I concur with staff that it makes sense to remove the H rather than send the site plan to the landmark commission. I certainly have concerns about the decision, but the decision I have concerns about was the earlier one.

[4:38:31 PM]

At this point I think I'll support the removal of the H reluctantly.

>> Mayor Adler: If there's no further discussion we'll take a vote on 42? All those in favor raise your hand? Those opposed? It's unanimous on the dais. Is 53 something we think will move quickly? Mayor pro tem has a couple of questions on item 53.

>> Tovo: Thank you for waiting around. I apologize we didn't get to this in the morning. So this is a tract within the nccd in Hyde park and upped to ask you a couple of questions. What are your -- what is -- I

know you haven't filed a site plan, but what is your intent in terms of the number of units that are coming?

>> Can we go ahead and bring up number 53?

>> Tovo: And actually, maybe you signed up to talk and have your three minutes?

>> No, because it was a consent agenda on your agenda there was no sign-up allowed.

>> Tovo: Perfect. If you don't mind handling it that way. I'll run through my questions and you can hit them in whatever order. So my questions are this: How many units do you plan to construct? Do you intend for any of those newly constructed units to be affordable units. And what are your intents -- do you have any plans to remove the structures on the site rather than demolish them? And just for my colleagues reference, this is a site that's across from the baker school in Hyde park, and it is within the neighborhood combining conservation district. Got those backwards. Neighborhood conservation combining district. Thank you.

>> All right. If I can go through this real quickly. The owners or purchasers of the property worked extensively with the Hyde park neighborhood association. This property is sandwiched between two 1960's apartment complexes and there's one across the street as well to the south.

[4:40:35 PM]

The hashing,

>> The design is for duplex type properties, more like homes, that fit into the Hyde park design, if you will, and then would be a Normal apartment complex. Let's see. Next slide. It's not coming up. This is the actual site plan, it is a through lot that goes all the way from 38th and a half to 39th street, so you have four structures, the larger structures are both two units each and the little structure in the middle there is a 1-unit structure. You can see we have large trees we're trying to preserve, so -- and we're parking it as to the code requirements so there are seven units on this site. As to the affordable -- there's not a specific requirement -- requirement that we've entered into with neighborhood housing. So these are essentially market rate rentals at this point in time. Did I miss one question?

>> Tovo: You missed one but --

>> The existing properties were determined not to be really candidates for moving because of their age and condition. One of them is a -- more of a masonry type structure that was very expensive to try to move and it has been -- the landmark commission and designations have been approved.

>> Tovo: What was the year of their construction?

>> Oh, boy. Sadowski has run off. I can't recall. I believe they were in the '20s.

>> Tovo: In the '20s so they're just little short of a hundred years old?

>> Yes, now they are.

>> Tovo: How many structures are we talking about that are now slated for dim litigation?

>> There were three structures on this property, a duplex and two houses, as I believe.

[4:42:39 PM]

That was some months ago because we've been in negotiation with Hyde park for lopping time, for months. We do have another letter from Hyde park.

>> Tovo: For the record the demolition letters I read earlier -- I said the numbers I was citing earlier when we were talking about the number of demolitions did not include these.

>> Okay, sorry.

>> Tovo: Okay. So you said that at this point none of the units that you're talking about here are poised to be affordable --

>> Right.

>> Tovo: And I would just ask if you've given any thought to that, you're removing three structures that likely are providing more affordable housing than the new units will be -- I understand they're not subsidized, but they're likely to be cheaper than the units you're replacing.

>> Correct. They're also -- also, the units that we're replacing were not code compliant so we're bringing new housing on stock into the center city, double the density, and so it is appropriate that we do this. But we're also doing it in relation to the Hyde park neighborhood groups wanting us to build something that blends into the neighborhood. So that also adds to, you know, the cost because these are small little units that would be more affordable. They're designed to fit into the neighborhood plan as far as the neighborhood is concerned. Only seven units can be.

>> Tovo: But they are all market rate.

>> Yeah all on this 18,000 square foot site.

>> Tovo: I guess I would just -- thank you for the answer.s I guess I would say I wish we were considering -- I wish when projects came forward, especially if you're demolishing existing housing, I wish that there were units --

>> If there were more flexibility --

>> Tovo: -- That were going to be affordable, at least one or two of them.

>> If there were more flexibility on the density and able to get the neighborhood to agree to twice this number, I'm sure we would be having that discussion.

[4:44:46 PM]

>> Mayor Adler: Okay. Ms. Houston?

>> Houston: Sir, before you sit down, can you talk to me a little bit about the unit competition? Are they gonna be one bedroom, two bedrooms, can a family live there?

>> They're three bedrooms.

>> Houston: Three bedrooms, okay. Do you have a picture of the -- I saw those, the -- houses that you got the demolition permit.

>> No. Those are the new ones.

>> Houston: You don't have a picture of the old ones?

>> No, I do not with me. The demolition permit had already been issued.

>> Houston: Have they been demolished already.

>> I don't believe so -- the owners are not here. Have they? No, they have not yet been demolished.

>> Houston: Okay. I'll dry by and look at them.

>> Okay, good.

>> Mayor Adler: Is there a motion to approve? Item 53. Is there a second? Mr. Zimmerman seconds. Any discussion? Those in favor please raise your hand. Those opposed. It's unanimous on the dais. Approval. Let's now do champion tract. Jerry, you want to lay this one out for us?

>> Councilmembers, Jerry rusthoven with planning and zoning, c14 -- known as champions tract three, located at the southwest corner of 2222 and loop 360. This item is ready for your third reading. There is a related item, I believe item number 6, I believe, on the agenda, that is an amendment to a lawsuit settlement that is related to the zoning case. Since our hearing last week, the only change I have to report is that we did receive valid petition that was validated at 36.76%. However, since then the applicant has amended the zoning case and shrunken the size of the area that the zoning change is being requested, and the petition is no longer valid because of that change.

[4:46:51 PM]

So with that, I'm available for any questions.

>> Mayor Adler: Okay. Mayor pro tem?

>> Tovo: Can I just ask a quick question about the last point you raised. When was the application amended? Would you tell us the chronology, when was the petition submitted and when was the application amended and were the petitioners informed of the fact that the petition was no longer valid and if so, when.

>> I'd have to go back to look at my email to see the exact times this all happened, but I can tell you it all happened between Monday and yesterday. I did not have a chance to call the petitioners, let them know the change had occurred, but I think that we validated -- if memory serves me correctly we validated Tuesday and I think on either Tuesday evening or Wednesday we received the amended application.

>> Tovo: Thank you. I noticed reactions to that news out in the audience and looked to me like some weren't aware of that.

>> The case was moved in 200 feet away from the previous boundary. I would like to note for the record in the previous zoning ordinance, existing zoning, there was a hundred foot setback from the property line to the south. The change in this zoning boundary would move this zoning change in 205 feet but the existing zoning would still stay in place, go, so the hundred foot buffer would not go away because of this action.

>> Tovo: Mr. Rusthoven, do you believe that the neighbor would have an opportunity still to attain a valid petition with the new boundaries or has it moved it away enough from the neighborhoods that there would be almost no possibility or no possibility for them to get a valid pet insisting I'm asking because this is third reading and if they're just learning now they might welcome an opportunity to go out and talk with different neighbors who are a little closer to the boundaries.

>> State and city law provide for valid petition within 200 feet of the subject tract and the boundary is moved in 205 feet so I believe a petition would be impossible.

[4:48:56 PM]

>> Tovo: Thanks.

>> Mayor Adler: Okay. We have some people of that signed up in the public to speak on this item, number 6 and number 43. We'll call them to speak now. Linda Solomon. Is sherry hunter here? Is Brad parsons here?

>> Thank you. My name is Linda Solomon, I'm on the board of the homeowners association, lived off of city park road for the last 16 years. To be clear, I'm not anti-development. In fact for many of my husband's years in his corporate life he was a developer in New York. What I am against is trying to shoehorn in a development that absolutely does not fit on a particular plot of land and if you were paying attention last week, which I hope all of you were, you would have seen the back flips and contortionist moves that had -- everyone had to go through to try and make this enormous project fit on a slope of land where it clearly is not appropriate so if dealing with the land or the fact that it sits on top of head waters doesn't move you let me speak about something else. We've heard wonderful things today about saving animals and making sure children aren't chased by wild dogs. I want you to think about your teenage kid driving down a windy, dark, wet road, road that has had six accidents in the last 21 days, one a fatality and a road where that car flipped over and landed literally within the boundaries of the marked driveway of this proposed apartment complex. We're not kidding and we say this isn't a safe entrance. There is no safe egress and ingress as it is proposed to this complex. And to try and shoehorn it is a disservice to the thousands of residents that are supporting keeping the zoning as it currently is.

[4:51:03 PM]

It is a disservice to all of us who must travel those roads every single day to get our kids to and from school and to get ourselves to and from work. So I hope and my neighbors hope that you will all please give us the consideration that you will to all of the animals in this wonderful city and to all of the protections of the park of this beautiful city. Please do not shoehorn in something that is gonna make an already known unsafe intersection and road infinitely worse. Thank you.

>> Mayor Adler: Thank you. Mary Mcallister. And then Susan Todd. Ms. Mcallister, you're up. You have three minutes.

>> Good afternoon. My name is Mary Mcallister but I'd like to take just a minute to have the remaining folks who have been here for multiple meetings to oppose this development stand. If you could stand, please. We've had five or six folks of that had to leave because of the time delay. This was a 1:00 time certain. Could those of you -- thank you very much. Thank you very much. I'm a property owner in district 10 and have been and live off city park road, and I really oppose -- I'm really flabbergasted at the developer's latest trick to attempt to -- more than attempt, to change the property lines as really just a nasty little trick. To invalidate a valid petition, and I think it's pretty obvious that's what's gone on here. If approved, the variances would not go through zap and such a blatant move to eliminate citizen input in my view is just ridiculous.

[4:53:20 PM]

The staff deal to approve these variances and by pass zap is a travesty. Number 1, deny this side step of the valid petition. Number 2, preserve citizen input. Number 3, defend the safety of drivers. We just heard about the six accidents in the last 21 days, including one fatal accident. But let me tell from you personal is experience, my husband has driven his motorcycles over 200,000 miles since we've lived in the last ten years off city park road. Ten years. 200,000 miles. He's driven as far as south as the Panama canal and back. He's driven as far north as prince Edward island. In all those 200,000 miles he had one accident. City park road and 2222, it's a dangerous street to begin with and just an impossible street to shoehorn this development into and to make this driveway. Deny these illegal variances which undermine the hill country road ordinance, lake Austin water ordinance and your very own imagine Austin. I stand against this rezoning. I stand against this development. It's not that we're against having something there. We know that there's got to be development there. But let's make it safe. Thank you.

[Applause]

>> Mayor Adler: Thank you. Is Susan Todd here in is Stewart Robinson here? Susan Todd? Stewart Robinson? Paul wade? Is Stewart Robinson here? You have three minutes.

[4:55:21 PM]

>> All four corners of the intersection of 2222 and 360 have been owned by the champions since goats wandered there. They built nothing there until the city grew up all around that land. They waited until the land became really valuable to build on those corners. Now many people live there. Ema long park is on city park road. When the champions finally built on the first two corners there was no easy way for people to access those buildings. The roads that now existed were already highways with entrance ramps, no easy way to build driveways into their buildings, so they used the cheap, unsafe way. They were unwilling to spend money to reconfigure roads. They badgered and insisted until the city let them build driveways on entrance ramps. Wait a minute. I thought entrance ramps are for accelerating up to highway speeds. You don't put driveways on entrance ramps. You don't have drivers slow down acrossing three lanes of accelerating traffic to go into a strip mall. This is an entrance ramp. Highway engineers said this vitals violates all principles of safe road design, but the champions' lawyers convinced

the city that they had invaluable property rights. The city caved in and let them build this dangerous setup. So when I drive on to 360 after a few near misses, I watch for drivers who do not expect this oddball design. I warn my son, "Watch out. They are not bad drivers. They are just not from around here. They couldn't possibly expect such a strange setup." The same tortured road design was repeated on the second champion corner.

[4:57:23 PM]

As drivers decelerate, they're surprised when someone pauses to make a right turn into the champion apartments. It's dangerous, but the champions don't care about the people who live in those apartments. They say it's my land. I can build what I want to. Now the champions want to make a dangerous mess at the third corner. The only way to get into their proposed building requires another two dangerous driveways. They don't want to pay for new roads, sacrificing some of their millions of profit to reconfigure the roads. Somehow they seem to have gotten Ms. Gallo and Tory Haas on board. Ms. Gallo seems to know it isn't safe. She doesn't seem to care. She is trying to convince us and you that it is a sensible idea to put a hidden driveway on a speeding hill on city park road. Ms. Gallo knows there have been five violent crashes at that site in the last month alone. It's crazy to put a driveway there. Why does she not seem to care if we get killed driving home? We elected her to look out for us, her constituents. Siding with the developer would betray the people who live in her district. She seems to hope her fellow councilmembers don't know these roads. She hopes that you trust the sincerity of the planning department. She seems to hope you can be bamboozled into thinking we are just a few whiners who --

>> Mayor Adler: I'm sorry, I'm sorry. Your time has been exhausted. Thank you. The next speaker is Paul Wade. David King. Mr. Wade, you have three minutes. I apologize to council.

[4:59:24 PM]

>> Thank you.

>> Mayor Adler: Sorry.

>> Does it matter? Which one?

>> Mayor Adler: Doesn't make any difference.

>> A lot of issues have been brought up about traffic and such, one that hasn't been brought up, I would read stuff about food deserts and stuff. Of course everyone that moves to these apartments are gonna have to have a vehicle. The closest grocery store is 4 miles taking the short cut through a neighborhood. That's also the closest bus stop. And the same -- I'm not one saying not in my backyard anyway. I have a condo townhouse in the same council district. Near the arboratum, where I would not object to a 15 story building being built on the west side of Jollyville road in that area where you don't have single family homes, where you have two big grocery stores, a half mile or less away, you have movie theaters, you have restaurants, you have all sorts of things. And in sitting here listening to all this other stuff, there's an advantage maybe in not making -- because I'm wanting to object to putting three to five story buildings virtually everywhere and maybe not putting 15 story buildings where it would make sense. And I had to listen to all the stuff about animal control, and Shepard Mountain is still wild enough that the coyotes and more recently a mountain lion seems to have taken care of any dogs we might have there.

>> Mayor Adler: Those are all the speakers that we have. We're now back up to the dais. And, again, I apologize to council and to you, councilmember Gallo in particular.

[5:01:29 PM]

I apologize. We're now back up to the dais. Is staff here? Property owner, do you want to open? I don't know if you want to talk or we can -- I'll call up staff first.

>> I'll call up staff. I'd like to close briefly.

>> Mayor Adler: Okay.

>> Mayor Adler: Is Mr. Lezniak here? This is what -- I want to understand better the comparison between what could happen on this tract if we don't do anything versus what happens if we did this. Because the situation we're in is we can't treat this as if it were a tract that was just coming to us under existing rules because this tract is not under existing rules. Is that correct?

>> That's correct. Mayor, chuck lezniak, city environmental officer. I can kind of walk the council through some of the high points of what could be done under the existing entitlements as opposed to what is being proposed in the -- by the applicant. I think y'all have got a memo today from me that summarizes some of those points or most of those points. Under the existing entitlements, under the settlement agreement, the property could have just over 7 acres of impervious cover under the lake Austin watershed ordinance. That ordinance allows 40% impervious cover on the 45-acre tract, also limits partnership by slope categories, reduces -- allowed impervious cover as the slope gets steeper. Once you get up to 35% slope no impervious cover is allowed.

[5:03:33 PM]

And that's similar to current code, but not -- maybe not exactly like current code. The applicant is proposing to set aside 30 of the 45 acres in a conservation easement. And conserve that land in perpetuity. The land is covered -- heavily treed. It's the bccp staff tell me that it's good golden cheek wash letter habitat, setting aside that 30 acres has a lot of the standpoint of bird habitat -- they are proposing just over 5 acres of impervious cover so under the proposal they're leaving about 2 acres of impervious cover on the table over what could be done under the lake Austin watershed ordinance. I believe one of the at the last meeting showed the council a land plan from a 2008 land plan that was done, I prime previous potential buyer, potential developer for the property. I took a look at that. I think I agree with the land planner, that is probably a viable development under this the settlement agreement and current zoning. It essentially provides two nodes of development connected by a driveway across the property and would get them that 7 acres of impervious cover. There's no question there's challenges associated with it. Access to 2222 on the eastern side is challenging. They probably could get access but not probably for a high traffic use. But I think at some point it could be developed across that whole property, and so what they're essentially doing here is trading off 30 acres of land to be conserved, moving some of that impervious cover and density from the eastern 2/3 of the property and pushing it on to the western third of the property.

[5:05:45 PM]

And recovering some of that density by going vertical. And so we do -- so it does reduce the overall impact to the property. They've agreed also to protect a number of critical environmental features on the western third of the property, that they're not required to protect under the lake Austin watershed ordinance. They would essentially be complying with current code for critical environmental features. They've agreed to comply with the erosion hazard zone that applies to classified waterways which requires you set back from a creek far enough so that there's no erosion hazards. They have -- in the discussions that we've had initially there were three buildings proposed, three apartment buildings proposed. I asked them to eliminate one of those buildings. They got rid of that building and now there's just a small leasing office there. They did recover some of that space by expanding the second building

some, but they moved that building farther down the slope so the amount of impact to the steeper slope is reduced as a result of the discussions that we've been having. Their original proposal was to fill in the tributary to bull creek along city park road and put a box culvert there. And it's not a classified waterway so there would be no way we could prevent them from doing that. They've agreed to do a clear span bridge across that so that that minimizes the impact to that tributary at bull creek. And then, lastly, because in this area with other construction in the 2222 area, we've had a lot of problem with erosion and sediment run yaw during -- runoff during construction. I've asked them to go significantly above what is required for erosion control.

[5:07:49 PM]

They've agreed to stabilize all disturbance areas within seven days of disturbance. They're using special techniques to reduce sediment runoff during construction. They're agreeing to phase their development and clear areas, small areas at a time, and then stabilize those before they open up the next area. They will build their water quality and detention ponds first so those can be used as sedimentation basins during construction. So on balance -- and, again, I want to remind the council that I was just asked to look at the environmental impact of the proposed development versus what could be done under entitlements on the property. And so on balance I think that there is a net environmental benefit to the proposed development as-is, as is proposed today.

>> Mayor Adler: Any questions on the dais? Yes, mayor pro tem. And then Ms. Houston.

>> Tovo: I had a question regarding the proposed cut and fill on this tract. Am I right in thinking it's in the neighborhood of about 30 feet of cut and fill?

>> Yes.

>> Tovo: Can you help -- so are we waiving some kind of requirements in considering this zoning?

>> We are. The settlement agreement amendment would allow them cut and fill up to in some areas 28 -- I think 28 feet. We're limiting the overall footprint of that, as they can't do just carte Blanche it's not an unlimited amount area-wise, being limited to a certain square footage.

>> Tovo: What is that scootage? Do you know? You can get back to me on it.

>> It's in the ordinance.

>> Tovo: I'll take a look and see if I can find it.

>> I do want to point out that under the buildings themselves, there is an -- there isn't a limit on cut and fill.

[5:09:52 PM]

>> Tovo: Say that again.

>> Under a building, under a structure, the current code does not limit cut and fill. It's only under driveways and roads and such as that where there's a cut and fill limit.

>> Tovo: This seems like a pretty large amount of cut and fill, especially in this area.

>> Absolutely. It is. And if under the entitlements, if an applicant were to come and propose a variance to either the lake Austin watershed ordinance or current code for this magnitude of cut, I wouldn't recommend it. And that was -- the amount of cut is really the impact that I looked most closely at, and I think on balance, setting aside two-thirds of the property so that it would -- it will never be disturbed is adequate mitigation for the a cut that they're asking for. And it was one of the reasons why I asked the applicant to get rid of one entire building, is because that did reduce the magnitude of the cut and allowed them to reconfigure the development to push the second building farther down the slope and reduce the amount of cut and the steep slope -- steepness of the slopes that they were constructing on.

>> Tovo: Is the cut and fill really necessary? I guess I would ask that question. What happens if we decide not to approve that variance?

>> I think it's maybe a better question for --

>> Tovo: I guess that is a better question for the applicant. I assume there are other options out there other than this one. How much of the two-thirds that's being set aside for conservation easement is actually buildable land?

>> I don't have the acreage numbers in front of me. The area -- the western portion is where the most developable area is.

[5:11:56 PM]

We can -- I can actually put a drawing up.

>> Speaker2: It's the eastern portion.

>> Mayor Adler: In fact a topomap would --

>> Houston: If you could show us -- when you say west and east, I don't know what you're talking about.

>> Why don't we get a drawing real quick.

>> Houston: Thank you.

>> Tovo:mr. Lezniak, while you're bringing that up, am I right in thinking the conservation easement is on the eastern side, right? And you said the majority of the buildable tract is on the western side. I'd like to better understand how much of the easement is actually land that wouldn't be allowed to be built anyway, especially since that's being -- especially since that's part of the mitigation for allowing such a significant cut and fill, I want to be sure we're not getting something -- I want to better understand that benefit in its totality.

>> Yes, mayor pro tem. In fact that's my first question as my grandmother would say [off mic] So let me [indiscernible] A little bit. This is 2222 right here, city park road. This is a slope map. The light areas are the flatter areas, and they're obviously the buildable areas, the white is zero to 15% slope and the darker it gets the steeper the slopes.

[5:13:57 PM]

You can see a triangular shaped parcel, and it's -- you can see there's a large flat area here. Over on -- this is the eastern portion. This is a fair amount of buildable area here. You can see right here, they do have some area of somewhat steeper slopes but they would be able to develop all of this and -- but there are some limitations for impervious cover in these. It's bisected by a draw right through here that gets very Steep and the land plan that was shown last week that I mentioned showed development in this area here, development in this area here, with a drive going across here and my guess is they would propose to fill some of this in or do a span across this draw right here detected to -- there is an existing driveway connecting 2222 right here, but I suspect they would have trouble getting access to park building or [indiscernible] Might be approved on that end. But if they connect it with a driveway, they could come across to here, city park road, or here to 2222. And so what they're proposing to set aside is, if you along -- you can see the dashed line in black. This is essentially what they're proposing to keep. To develop. It actually comes across here now, I believe, and all of this, all of this property drawn in -- there's critical environmental features through here. This is all [indiscernible], there's a wetland here, rim rock here, critical environmental feature. This is the tributary that I was talking about earlier that goes right through here.

[5:16:00 PM]

And so what they've done is they're taking, putting all their development in this one area right here and protecting the remaining two-thirds of the property. And so what that does is rather than spread the development across this whole thing, they're concentrating it in one area.

>> Mayor Adler: Okay. Further questions at this point for staff? Ms. Pool?

>> Pool: Thanks. Could you go back to -- I think the mayor pro tem had asked a question about the structural excavation under the hill country roadway ordinance. I think according to the chart that I'm looking at, we are limited to 4 feet below a steep slope and where is that, as far as what is being requested in the variance?

>> I actually asked Andy

[indiscernible] To speak to that, they're a little bit more expert on the road country hillside requirements as I am.

>> Pool: While you're here I have one question for you. You pointed out this is next to the balconies canyon land preserve and I understand there hasn't been regular communication or notification to the bcp on development projects or site plan exemption applications that come through on our identified endangered species habitat adjacent to the preserve. But it sounded like you are now having some conversations with them, and so I'm understanding from my staff that you're committed to making sure that communication and notification occurs in the future. Could you speak to that? I think that's also a Andy

[indiscernible] Question because it's relate the to the permit.

>> Pool: As the environmental officer don't you have some oversight of those activities?

[5:18:01 PM]

>> No, I don't. That's all done by the development services department during review. They're -- the code requires that prior to getting a development permit that the applicant notify -- or that bccp, fish and wildlife service and Texas parks and wildlife be notified of the activity, and that's the only requirement in city code and it's done as part of the development process.

>> Pool: Okay. But in your position as an environmental officer you know about that and so if that didn't happen or hasn't happened in the past, I guess Mr. [Indiscernible] Then can respond to that. What I'm looking for is commitment from staff that we'll make sure that our bcp partners are -- and the staff are aware when -- for example, the clearance or construction or a site plan and zoning change next to the preserve.

>> Yeah.

>> Pool: Is happening.

>> And when I say that I'm not involved in it, I am involved in the development process and with site plan and subdivisions that done very consistently. I see that requirement in the discussions with applicants and the reviewers. It's routine. The site plan exemptions I'm not very often involved with because it's a rapid turnaround 24-hour kind of thing and I think that's where the gap occurred.

>> Pool: Yeah. I think my staff has discovered that our bcp staff weren't aware of what was happening on this --

>> I think that's correct.

>> Pool: This particular case. Would you like to speak to that? I think this is a critical gap, and we definitely need to close it.

>> Thank you. Andy, development services. Yes, councilmember. These are exemptions. I think there's a misunderstanding by our staff that it's not a permit, it's not a plan. It meets a minimum threshold of allowable clearing and the code doesn't say -- we would check and say, oh, we can't permit this, it says do a notification. We spoke with the bccp folks and we've fixed that.

[5:20:05 PM]

Going forward -- we'll ask the applicant to copy us on the email that they send, which is how it's prescribed that we're to make that notification. We'll ask for that before they get their exemption. So they'll have to email bcp, the fish and I think the state agency is not taking it anymore. We'll get that email before we give them a permit. It was an oversight on our part because we weren't issuing a permit. We are saying it's such a small minor surveying and that kind of thing I think our staff was thinking that's not really a permit so we shouldn't notify that but we're going to do that going forward. We fixed that. That's kind of where we are with it.

>> Pool: If you do the notification and then if there are any concerns that the staff at the bcp have or wish to raise is there room in the process to receive feedback from them.

>> I believe at that point we would have the applicant make the notification. If there were concerns they would would back it the city if they arrayed it with the applicant and at that point we could reach out to the applicant, hold orientation we need to talk about this. We've closed that gap. I mean --

>> Pool: I hope so. We are putting so much stress on our preserves in central Texas.

>> Councilmember, if I can add, arrive heard about this last week I right away reached out to the bccp secretary, talked to the law department, and we've exchanged a lot of information, you know, we're pretty confident that with site plan and subdivision, this is happening very regularly. People get the opportunity to participate in the bccp program so that they're covered by a 10a permit. I know at the last meeting, someone made the comment about eligibility. If clearing has already occurred. And what are -- the secretary told me happens in that kind of case is if clearing has already occurred without coverage under a -- under the bccp or another 10a that that person is not allowed to participate until they go to fish and wildlife service, consult with fish and wildlife service and determine what the correct course of action is, that Kimberly Harvey told me what typically happens is da consults with that developer, usually send them back to bccp saying go ahead and get coverage and you're able to participate in our 10a.

[5:22:41 PM]

That's not done -- that's not allowed until they've gone to fish and wildlife service and done that. If there's anything beyond that, any other mitigation or enforcement action, fish and wildlife service is given that opportunity pro[we provide them coverage under our 10a.

>> Pool: Okay. Okay. I'm not sure that the approval is given quite that quickly or in every case.

>> I don't know how quickly it happens and if it happens in every case, but that is what they tell me is typical.

>> Pool: Okay. All right. Thank you. So it sounds like the issue about having communications with our staff and another detriment has been addressed and we'll continue going forward.

>> Yes, absolutely.

>> Pool: Okay, great.

>> Yes, ma'am.

>> Pool: All right, thank you. You're up here so maybe I can refer the original question that I had that --

>> Mayor Adler: That's fine, go ahead.

>> Pool: Mr. Lezniak tossed it over to you. I think we're looking at 252-1123, it says 8 feet and the applicant is looking for 34 feet. We're talking steep slopes.

>> So let me make sure I'm clear. We're automatic at 252-1123 construction on slopes under the building or outside of the building?

>> Pool: Either way. I think there's an 8-foot number in there, and the applicant is looking for 34 feet. Requesting a variance.

>> So I'm curious from Mr. Lezniak, I think he -- did you produce -- chuck, did you produce the table that shows these values? Or do you have that that you can put up? On the slopes?

[5:24:44 PM]

>> Pool: And I'm looking at Mr. Lezniak's table, and under the 252-1123, which is the hill country roadway ordinance it says max 4-foot terraces less than 8 feet in length and that was with the land development code regulation in 93 said, and then we had no exception granted, and then we're looking at the variance proposed by the applicant on August 26 was 8-foot terraces of unknown length, which is two times the height limit, and then September 29, applicant staff deal for legislative variances, 8-foot terraces of unknown length. Actually, it's the same. Two times the height limit.

>> So, councilmember --

>> Pool: And okay. The one right above, that maximum 8-foot structural excavation, which is the same 252-1123, no exception granted, excavation up to 34 feet, four and a quarter times the limit. I think that was the point mayor pro tem had mentioned, and then I had -- so that one and then the one below it.

>> And, councilmember, to the extent that -- I mean, I'm aware that they were requesting that and that it is a variance of the hill country roadway ordinance and I did take that into consideration when I did my environmental evaluation. You know, the -- I was looking at the overall cut and knew that they would need a variance to the lake Austin watershed ordinance and to the hill country roadway ordinance, and took that into consideration. It's a large cut. There's no question. And as I said, under the existing entitlements, I would not consider -- I would certainly not consider that a net environmental benefit.

[5:26:44 PM]

It would certainly be a significant environmental impact. But I think on -- I think on balance I'd -- I took that into consideration and on balance I think there's still a reasonable environmental benefit as part of their proposal.

>> Mayor Adler: Further discussion on the dais? Questions for staff? Ms. Houston.

>> Houston: Before you leave, under the existing entitlements, what can be built on that property?

>> Under the zoning entitlements or the --

>> Houston: The zoning entitlements.

>> I think we'll need to get Mr. Guernsey or Mr. Rusthoven up here.

>> Councilmember, under the existing entitlements, the tract is zoned go, the size of the office building would be limbed to no more than 34,000 square feet, there are about a thousand trips left in the original champion zoning case. They could build other uses allowed in the go, those would be things such as hypothetically a hospital, congregate living, things like that, but the thousand square feet would -- I mean, sorry, the thousand trips would probably be the limitation on that. So generally speaking I would say a 30,000 square foot office would be the most likely use.

>> Houston: How many trips a day does that generate?

>> Avoid to go back and do those calculations or talk to the transportation department and run that number for you real quick. Okay?

>> Houston: Okay. Thank you.

>> Mayor Adler: Yes, Mr. Casar, I think you were up.

>> Casar: Sure. And so, Mr. Lezniak, I know that it's a tough balance that you were describing to us and I appreciate you providing a recommendation even given that there's environmental pros and cons to the proposal at hand.

[5:28:50 PM]

To help clarify from this last question, so what -- when you were comparing to what would be built if we vote nod on this, you're comparing it to that 30,000 square feet of office or are you comparing it to if they utilized the -- those other thousand trips to do 30,000 square feet of office plus what's left on their trip count?

>> Something else. If this was solely 30,000 square feet my answer would be very different, but under the zoning, Mr. Guernsey has opined that there's a number of other possible uses that would not have that limit. And so if they built something beyond the 30,000 square feet under the go zoning and it appears that they could do that, then that's where the net environmental benefit comes in. If this property is limited to a 30,000 square foot building, my opinion would be different.

>> Casar: Under -- that's what I'm trying to get sorted out between those two questions. If it was a 30,000 square foot building, it seems like environmentally we would not want to approve this. But if it can be more, which is what I thought you were describing when you showed us the topo map with two different flat areas and multiple buildings, then environmentally the answer might be different.

>> Yes.

>> Casar: I might take you off the hot seat and see if Mr. Guernsey can help clarify this for me because I want to make, obviously, the environmental impacts is a really big part of this decision.

>> Beyond the -- Greg Guernsey, planning and zoning, beyond just building a 30,000 square foot office, the go district allows other uses that could include a college or university, religious assembly, private secondary school, I think Jerry mentioned hospital. There are other type of uses that could actually allow for something might be similar to residential, call it congregate living, kind of like an assisted living facility.

[5:30:57 PM]

But they would all have that same limitation of a thousand trips. That would be placed on them. So it's more of the trip limitation. For some of the uses -- and I don't have a lot of them here, but if -- and these are numbers that I'm gonna say kept through the years based on different charts I've received from transportation. But they could build, like, a hundred thousand square foot religious assembly use that would not trigger more than a thousand trips per day. A day care of about, oh, 13,000 square feet. Because that generates a lot more traffic. I think about a 70,000 square foot hospital, but that's -- those limitations are solely based on trips. Under hill country, a lot of the restrictions that are placed are based on how much floor area you can build by slope category, and you'd have to do an analysis actually to come up with that. But most of the development is limited to zero to 15% slopes. I'm aware of other projects that are up and down 360 that I've worked on through the past, where 30-foot cut and fill may not be that great of amount. If you're trying to diverse a site from one side to another, I mean the 3M building that's further up 2222 on the plateau to get driveways around some of the structure actually traverse slopes that were over 30 feet of cut. They bridge those areas to cross. I don't know if that's helpful to you.

>> Casar: I think, yeah, I may need you to stay there for a second when I now ask the follow-up to Mr. Lezniak.

[5:33:02 PM]

When you're giving us on balance you're saying 30,000 square foot office on this tract would probably be more environmentally beneficial or less environmentally impactful than the proposal we have on the table, but compared to what they could do you prefer what we have in front of us when you are thinking

of what they could do, were you taking into account the hundred thousand square foot church or the seven -- 70,000 square foot hospital? How does that work out? I guess that's what I'm trying to get.

>> Yes, I was assuming something significantly larger than a 30,000 square foot building. So if you assume they can build something a hundred thousand square foot, you know, 75,000 square feet, you know, in that range and that they spread it and then if they comply with the hill country height limit, you know, they spread it onto those two lobes and connect the two, which they're both construction which mean economic challenges to that, but I think on balance is probably feasible. This is preferable.

>> Casar: Because then you were talking about how you can always cut under a building so then we would have cut happening on both sides of the tract?

>> There are -- as councilmember pool pointed out, there are limitations to doing even that under the hill country roadway ordinance. But, yes, overall, they would have shorter buildings, more spread out, lot more impact to the land. I'm not really looking at the total square footage. I'm looking at the impervious cover, which is the footprint of the buildings and the associated surface parking, which don't count towards their zoning square footage. And those sorts of things. You get the spread out development that is overall more impactful. They're squeezing this density into a small area of report and that's preferable from an environmental standpoint.

[5:35:04 PM]

>> Casar: Understood. You've got a lot of that square footage going up and so a low but wide day care is more environmentally impactful than a tall residential tower.

>> That's correct.

>> Casar: All right. Thank you. I know I told you to stick around but you're free from me for now. Thank you.

>> Mayor Adler: Mayor pro tem, did you have questions?

>> Tovo: I had a couple additional questions. I think this one is for Mr. Guernsey. Certainly we've heard these concerns before, but today we were -- one of the speakers was talking about accidents along this stretch of road and concerns that this development would exacerbate the traffic -- the safety situation along there. Can you help me understand why that would be a concern for -- a concern for residential versus office? Is it that the trip is the -- I mean, I guess I should have addressed this question to the speaker, but how does -- how do the traffic -- I think somebody had asked about traffic counts earlier. Would you assume more traffic for a residential project than for office?

>> Again, it kind of depends on the number of -- how big an apartment building, if an apartment building was about 300 units plus or minus, you might generate 2,000 trips a day. So if -- really kind of depends. A 300 unit apartment generates 2,000 trips versus a smaller office building that would be limited to that 1,000, certainly that's gonna be a lot less. As far as where the traffic goes, on hill country, by the ordinance itself, it's always preferable to take access not to the hill country roadway but to actually to a road that's adjacent to it, collector arterial versus actually taking direct access to hill country roadway when the ordinance was set up it tried to minimize the number of curb cuts directly on a hill country roadway.

[5:37:13 PM]

But the roadway itself I probably would have to leave the comment probably to the traffic engineers or one of our transportation planners to say how that would interact at this particular location. Obviously it's a concern to the neighbors. It is only one way in, one way out for most of that stretch going down city park road but how that actually would interact depends on how big the office is versus how many residential units you have.

>> Councilmember Houston, the answer to your question, 30,000 square foot office, about 330 trips a day.

>> Mayor Adler: Is there someone that did speak to the question of how many trips would be generated with the existing entitlements versus how many trips are generated with this? Is there a difference in trip generation?

>> As I said under the original champion zoning case had 6500 trips allocated and I believe all but 1500 have been used up. We also have a 30,000 square foot office limitation so if they were to build an office building on this tract it would generate about 330 trips. There are about a thousand -- as I said between a thousand and 1500 left over from the old settlement agreement so they could use up 330 of those trips and still have, you know, between seven and 1100 trips left over. The proposal right now is for about a 300 unit apartment complex would generate just under 2100 trips a day and there's been a ti and it's been analyzed by the staff and approved. One way to look at it, it adds about a thousand trips more than what the existing entitlement is. Another way to look at, you have the 30,000 square foot limitation on the office, but the traffic has been reviewed recently. The 6500 trips was based on ti I worked on back in the middle of the 1990s and obviously a lot has happened since then.

[5:39:14 PM]

We did have a new review with this application and it showed that the traffic works with 2100 trips a day.

>> Mayor Adler: Mr. Casar.

>> Casar: I want to clarify your earlier statement when councilmember Houston asked but the 30,000 square foot office, you mean you would anticipate -- I'm not asking to you crystal ball this thing but if we don't approve this, you would anticipate a -- the potential of a 30,000 square foot office building on one part but for them to very likely utilize their existing entitlements and trip counts to build --

>> The other uses Mr. Guernsey referred to permitted in go would be a possibility, yes.

>> Casar: So they could build a 30,000 square foot office building and a church or hospital or all those other things listed on the other portion.

>> They'd still have 700 to 11, 1200, yes. So about 700, maybe a few more than that, trips left to use for other uses permitted in go besides office.

>> Casar: Thank you.

>> Pool: Mayor?

>> Mayor Adler: Ms. Pool.

>> Pool: I want to drill down a little bit into that. There are two different things we're talking about, one is the maximum number of square feet permitted on this lot, and that is the --

>> It's not the maximum square footage. It's the property zoned go that says for an office use the cap is 30,000 square feet.

>> Pool: And can there be any other -- is that what you're saying? Is that not only can they have 30,000 square feet for an office but they can also have these other --

>> The hospital, the day care, the church.

>> Pool: Now how does then the trip cap affect that? Because my understanding was originally before this case was filed all of the trips had been used up on the other champion tract.

>> They weren't all used up but there were not enough to get to the 300 apartments that the applicant is proposing with this case. There were, and I'm looking right now trying to find the exact number, somewhere between a thousand and 1500 trips left over from the 6500.

[5:41:18 PM]

That did not get the applicant to the 2,000 that he needed to do the 300 apartments. So that's why the zoning case was filed. In addition to adding the use obviously it's down zoned is from office to multiple family but a second reason to file the case was getting the trips up to around the number 2500 needed to do the 300 apartments proposed.

>> Pool: That helps clarify that. Thank you. I just have a question about the city park road entrance. Who wants to that I can one? I'm looking for -- clearly, it's a dangerous road. The sight lines are a challenge. It's hilly, and I don't think we're going to in there and straightening it out, which would be a bad move. Is there any way we can eliminate that entrance on city park road? My understanding is that txdot has restricted access on to 2222 to a right in and right out so we're having to accommodate and provide this additional entrance. A lot of it is because we are limited by txdot. Is that correct?

>> Right. Txdot gave restrictions in terms of access on 2222. Staff still feels that it would be beneficial to have a second access point. Otherwise, the visitors generated by this development would be taking u-turns on 2222 at city park road. In terms of the level of safety, if you will, on city park road, a few weeks ago when these concerns came to us at atd -- sorry, earic, Austin transportation department, we started looking at reported crash history. We found nine crashes between west courtyard and 2222 on that segment. We didn't find necessarily a pattern of unsafe.

[5:43:19 PM]

We looked at average crash rates. It seemed to fall within what we'd expect given the volume. I know it's hard to say, well, any crash is acceptable, but we also take a look at crash rates up until before this concern came to us, city park road hadn't been a concern, at least voiced by residents, or even looking at our top crash locations that we're focusing on city-wide. So taking those into did the, we have reviewed the sight lines provided by the applicant. I know there was some concern by the neighbors. I saw a video about not being able to see the driveway around the curb. And that's kind of related to what we call the horizontal sight distance, so basically if you can see around the curve, the applicant has provided to atd their plan to improve the sight lines by removing trees fronting their property. And we checked the calculations per what we call ashto green book, kind of the industry standard, what city of Austin follows too, between the horizontal curves and vertical curves. They meet the minimum provided stop, even exceed it. There were also concerns about wet conditions and whether that covers all types of vehicles. Reviewing the ashto calculations that these determinations are based on, it does state that these calculations do take into account wet conditions -- at least 90% of types of vehicles and how they will break given conditions.

>> Pool: City park road is an old rural road, right?

>> Right.

>> Pool: It doesn't have any shoulders.

>> I'm sorry.

>> Pool: Does it have shoulders.

>> No it doesn't.

>> Pool: How wide is it.

>> Probably less than 30 feet.

[5:45:20 PM]

I'm not sure of the exact.

>> Pool: So given the increased number of vehicles that will be traveling on there if we have the entrance on city park road, is there a better location rather than on the curve for the entrance road to come into the development.

>> In our opinion, I think the best location on city park road in terms of slope where it's located, working with the vertical and horizontal curves, so we do feel that that's the best location. Like I said, it does meet the minimum stopping sight distance.

>> Pool: Even knowing there was a wreck right there.

>> I did hear that. We had looked through sort of the beginning of October going back three years. If there was some in the last few weeks it wasn't captured in our review. We do rely on more or less Austin police department's records to get into the system and then we can look at it. So we can take a look to see the nature of the crashes during the contributing factors. Yeah.

>> Pool: And then last question, you said you'd be removing the trees. Have they been surveyed and do we know the approximate age of them and whether any of them are protected?

>> The applicant has told me they did compare to the tree survey conducted I believe last year. And they've stated that all of them can be removed in terms of not being protected.

>> Pool: Have you provided that tree survey in the backup? Do we have that from staff?

>> I'd have to defer to the other department.

>> Pool: Thank you.

>> Mayor Adler: Any further discussion? Mayor pro tem.

>> Tovo: I have a couple questions for the applicant, unless my colleagues have other questions for staff. Is it appropriate, mayor, to does questions --

>> Mayor Adler: Yes, anymore for staff?

[5:47:20 PM]

>> Pool: I did have one last one.

>> Mayor Adler: Go ahead.

>> Pool: Busy with the enhance piece but does not the trip cap already limit the size of the development? And that may be something for Mr. Rusthoven. Sorry.

>> Sure.

>> Yes, the trip cap would limit the size of the development.

>> Pool: So the 30,000 square feet, whether it's in an office or in a church or something else?

>> No. The 30,000 applies specifically to an office use. So the existing restriction is zoned office and an office building cannot be above 30,000 square feet. There's other offices -- I mean, I'm sorry, other uses that are allowed in that zoning category that would not be subject to that 30,000-foot limit. We also have the cap, remainder piece of the 6500 that as I said is in the 1,000 to 1500 range that would apply to the property today as well.

>> Pool: Okay. So the trip cap does limit the size of the development.

>> Yes.

>> Pool: Okay. Thank you.

>> Mayor Adler: Thank you very much. If the applicant wants to come up. Do you have questions.

>> Tovo: I have a couple questions. We talked a little earlier about the cut and fill and I wanted to know what your plan B would be were council to not approve the variance for the 30ish feet of cut and fill?

>> Well, let me answer it but I'm gonna go kind of the long way there. Cut and fill in this area is a common variance that's granted. Most notably for your own water treatment plant you got 30 feet of cut and fill.

>> Tovo: I wasn't here during that one.

>> Pardon me?

>> Tovo: I said I wasn't here during that one. That was a different council that approved that.

>> I'm not saying you. I'm saying the city.

>> Tovo: Just want to be clear.

>> Every major retail, every major development up and down 2222 has had a&I've got a long list should you be interested but they generally range between and will 30 feet of cut and fill.

[5:49:30 PM]

The reason we have the cut and fill on this one is we are trying to tuck this building away from 2222 and into the side of the hill to stay out of the sight line of the folks that live up above us. And so we don't have a plan B because we -- in giving up 3/4 of the land for development and doing the -- staying away from the cefs and all the things that the environmental staff has negotiated for, it only leaves one spot for the building and the building has already been shrunk we put it there. I guess I'm telling you there's no plan B. But there's -- and chuck or the engineer can probably help me with this. The a32-foot cut is very small.

>> Tovo: Can you say that last, the a30-foot cut --

>> It's not like we're going in, shaving off the entire top of the hill which is normally what you think of in a cut and fill variance. It's basically we're trying to tuck this building down into the side of a hill so we can tuck it back away. Under current codes we're allowed to bring the buildings up to within 25 feet of 2222. We're actually pushing them back, trying to be more consistent with the hill country roadway.

>> Tovo: I wouldn't mind seeing if you don't mind putting that list up there, I would be interested in seeing that list of cut and fill. My other question four, I know that -- for you, I know you had indicated to my staff that you were contemplating voluntarily including some affordable housing within this apartment complex. Can you offer some more description of that, please?

>> Well, one of the speakers last week talked about compliance with the comprehensive plan and with imagine Austin. And we think that we comply with imagine answer and the comprehensive plan. One of the things the comprehensive plan calls for is wider dispersion of both the sides and affordability of housing. And so to bolster, should you pass this tonight, to bolster that compliance with comprehensive plan, we are prepared tonight to voluntarily say on this project if it's approved like you see it that we would offer 10% of the units to be available to 80% mfi for 40 years, which is the standard rental type multi-family affordable housing program that you have.

[5:51:55 PM]

And that is voluntarily offered as part of showing complete compliance with the comprehensive plan and imagine Austin. I was gonna include that in my closing but now it's on the table.

>> Tovo: Thank you. If you don't mind leaving it up for just a minute. That was my last question for you.

>> Mayor Adler: Okay. Do you want to go ahead and close?

>> Sure. Mayor, members of the council, thank you for listening to us on this case. This case has been around a long, long time. I don't represent the champions, but the champions have been before you. One thing that keeps getting missed is the typical cap that people keep saying is on there. That is the subject of a lawsuit that was dismissed without prejudice that the champions can always bring back because it was an artificial cap and it was deemed to be a violation of the settlement agreement. That is not our argument tonight. We're coming to you, saying we need an extra few trips to put 300 or so apartment units on this tract. Councilmember pool, you are really driving hard at this driveway. We're not asking for the driveway tonight. If you were to vote for this tonight, you are not saying anything about the driveway. The driveway comes at the site plan phase. We have to prove it's safe. We have to prove it's necessary. We contend we're entitled to one because we have city park road address, but let me tell if you we can't philosophy it's safe we don't get a driveway but you're not approving a driveway tonight. If you were to approve this project. This case started as us adding mu to the go. By the time we got to the zap, somebody, not us, but somebody on the neighborhood side had asked would we

consider going with mf and deleting the office portion of this. We acquiesced to that. Somebody asked that we have no development on the eastern portion of this.

[5:53:59 PM]

We said yes. Which did two things. It did away with the buildable site and did away with the potential driveway on 2222, which by the way is another dangerous road. Txdot and others will say it's actually more dangerous than what we can accomplish on city park but it eliminated a building site and eliminated a driveway. Then in conversation with the environmental staff, that eastern portion grew to about 30 acres. So of the 45 acres, 30 of it will be conservation easement, never to be developed again. So that was another added concession. And I give you these concessions because some would make it sound like we've been hard nosed and not tried to negotiate on this. We've negotiated all along through the boards and commission process. In negotiating with the environmental staff, we lost a building. We got cef setbacks, enhanced erosion controls, we got more undeveloped land, environmentally, I think Mr. Lezniak made that case. We've made an effort to tuck the building into the hill so as not to block the sight lines. With all these concessions though the reason we're here is the settlement agreement says that the city accommodate do anything to us to limit any more development on this, and your legal staff rightfully looked at that and said, wait a minute, if we're asking you not to develop 3/4 of your land we have to amend the settlement agreement and we said, okay, we're willing to do that but if we're going to forever put this in a conservation easement we kind of need to know that we can build something. In order to know that we can build something we immediate to get the cut and fill variances and stuff so we know we have a building pad. That's how all this came about and came to you, so that everybody gets their part of the agreement. Again, in response to the questions of whether or not we're meeting the comprehensive plan and imagine Austin, the offer is on the table should you pass this tonight that 10% of the units would be made available to those making 80% mfi and the Austin statistical area and I think that very clearly solves the issue of dispersion of housing type and housing prices throughout our city.

[5:56:13 PM]

So with that, that is my closing. I hope it's been a lot of work and a long haul. I'll say it again. I've never worked so hard for such a small apartment project on 45 acres. Thank you.

>> Mayor Adler: Thank you. Is there a motion to approve this item 6 and 43?

>> Zimmerman: I'll make that motion.

>> Mayor Adler: Mr. Zimmerman moves. Is there a second to that? Mr. Casar seconds that. Any further discussion? Mr. Casar.

>> Casar: I'd like to explain my second to that and why I'm gonna vote yes here on third reading on -- as far as the -- some folks have brought up legitimate environmental and drainage concerns with the project, and I'm not particularly a fan of seeing if we can ease sprawl development, especially in the hill country. And so that's why I appreciate Mr. Lezniak's balancing act on this, that he was able to provide that level of recommendation. Because if I could vote for it to be just a 30,000 square foot office building, for it -- and only have 300 trips that's what I would do but my understanding is that that's not the alternative, voting no doesn't get us the 30,000 square foot office building. It can get us development on both sides of this tract, which doesn't help with the flooding concerns that have been sent to me by some of the residents for there to be increased impervious cover and doesn't help with the environmental impact. On the transportation side, I do care quite a bit about dangerous road conditions and people being hurt in traffic, but I do have to -- I think we do have to rely on our transportation staff to make sure that driveways are safe and that sight plans are safe. And if we don't, if

we can't rely on them, then we have a way bigger problem than this one project because we have thousands of entitled tracts all over the city, things constantly being built so we've got a way, way bigger problem than this one project if we can't rely on our transportation teams to make sure that the driveways are safe.

[5:58:34 PM]

And so I don't see voting yea or nay on this as impacting that because what we need to make sure we do is not that those site plans are only approved when we have safe driveways. And then, finally, have -- adding a diversity of housing types in different parts of the city is important, and I appreciate and will -- want to make sure if and when this project is built, if this is passed, that we do have that lower mfi housing and below market rate housing frankly in a part of town that doesn't have very much of that. So it's not an easy case. I understand and respect the folks that have come to oppose it and initially my understanding of why we would want more than a 30,000 square foot office building on the hill country roadway I agreed and was inclined to deny the case until I think I really understood that, frankly, a vote no doesn't to me help the environment. It actually seems to hurt it and a vote no doesn't seem to me to reduce sprawl, it actually seems to increase the potential of sprawl. And so I know that there's tough opposition on either side, for and again, but from a housing perspective and a flooding perspective and environmental perspective this seems like the bets vote that I can come up with, is supporting this.

>> Mayor Adler: Further discussion on the dais? Gallo?

>> Gallo: You know, I start by saying thank you to staff. I know that you have all spent a lot of time as we've been working with the neighbors and neighborhoods since, gosh, almost a year now since this was first submitted and we've really tried to be the conduit that was available and made staff available as there were neighbors, neighborhood questions about environmental issues and traffic issues, and I just want to thank you to staff because I know it's taken a lot of your time to help us with this. I also want to say thank you to the neighbors that are here today and also the ones that have been working with us over this past year on this case.

[6:00:38 PM]

We've had meetings, and I know y'all spent a lot of time. I apologize for the time that you waited today. You know, that's the problem when we have a request like we did from the neighborhood to set it for time certain, it's not really time certain. We need to rename that because it implies that it'll be heard at a certain time, but it's that it won't be heard before that time. So I apologize for us implying that it would be at 1 o'clock. You know, for decades, we as citizens in Austin -- and I said this last week when we talked about this case. You know, we failed in this community to provide funding for road infrastructure outside the central areas of Austin. And city park road is a perfect example of that. This road looks exactly the same, as I said last week when I was a young person growing up and riding horses at webwood stables which was on city park road, the road didn't look much different, and that was a long time ago. And I absolutely agree with the neighbors and the surrounding areas that say city park road is dangerous, and we as a city have a responsibility to figure out a way to fund long, overdue improvements on this substandard road. And it carries a large volume of cars. As y'all pointed out, there's accidents on the road. We have weather that makes accidents a little bit more prone to happen and we have a road that is not easy to drive safely. But regardless of what happens today with the zoning case, I want to work with the neighbors to try to figure out ways to find funding to improve this road because it certainly is, as we talk about road conditions in this community, you know, it certainly is an area that we need to spend some time and effort in, if we can find the available funding for, start making improvements on it so that all the neighborhoods that are driving up and down that road are

safer. The majority of the neighborhoods who have submitted official neighborhood opinions are opposed to the zoning case, and I absolutely agree with the concerns that they have for both safety.

[6:02:44 PM]

I think chuck has addressed many of the environmental issues, but neighbors are still concerned with some of the variety of things issues. And last Thursday at the meeting, I made a commitment that unless the applicant and the surrounding neighbors could come to an agreement prior to this third reading, that I would vote to support the neighbors in this voting case, so I will be voting no today.

[Applause]

>> Mayor Adler: Any further --

>> Garza: I agree with much of what councilmember Casar said so my question was not the deciding factor. I wanted to ask about the 10% affordable housing, what -- I want, I guess, more details. Is it just studios? Is it a diversity of units? And is it 40 years? As the developer going to work with nhcd?

>> We'll work with nhcd and it is for 40 years. The actual project hasn't been designed yet. We've got to keep the flexibility to know which 10% would be at 80%. But at this early stage, and this was late being our nod to the comprehensive plan, we don't know. But this project is probably going to come in at something less than the 310 units that we originally planned because of all the things that are happening, so right now it's hard to say what the mix will be because we just don't have the project yet. But we will work with nhcd, it will be 40 years, and it will be 10% -- 10% of the number of units will be made available to those making 80%.

>> Garza: Can it not just be studios? Can it be two bedrooms?

>> Well, I can't commit to a mix, but I don't know -- I don't think we're going to have studios.

>> Garza: Okay.

>> I think the mix is intended to be one and two bedrooms and we'll work with nhcd on that.

>> Garza: And is it 40 years from certificate of occupancy?

[6:04:45 PM]

>> From the date of certificate of occupancy, yes.

>> Garza: Okay. Thanks.

>> Mayor Adler: And those are all good things to know, but of course it's not quid pro quo for zoning because we can't -- we can't do that, of course. But thank you for that conversation. Mr. Renteria.

>> Renteria: I'm also going to be supporting this project. I grew up here in Austin, and I spent many Summers there at city park at the end of the street at 2222. Of course the last time I went down there during the fourth of July, I wasn't able to get in, it was so crowded that I had to come back and turn around and come back because that's how much that park is used there in the summer. It's one of the best parks. I love that park. And I've driven that street so many times. And I know there at the entrance of 22, if you're going up that street, you're not going to go very fast. That slope is so steep, you know. And the affordability that we get -- the affordable housing that we get, I think that's a good compromise, so I'm going to be supporting this.

>> Mayor Adler: Any further discussion? It's been moved and seconded. Those in favor, please -- of these two items, please raise your hand. It is Garza, Renteria, me, Zimmerman, troxclair, Casar. Those opposed? It is Gallo, pool, kitchen. Those -- and Houston. Those abstaining? How did you vote? The mayor pro tem voted for. That makes the vote 7 to 4. This item passes. Those two items pass. That gets us now to --

[6:06:48 PM]

>> Mr. Mayor, could we take item number 46 next? Would that be -- I think it's relatively quick.

>> Mayor Adler: Now, we have 36 and 37. A lot of people are here.

>> Kitchen: Oh, we do?

>> Mayor Adler: So let's go ahead and take that.

>> Jerry rusthoven --

>> Tovo: I was just going to say I think we have two public hearings that are postponed if we haven't postponed them already. I don't know if staff --

>> Mayor Adler: Two public hearings to postpone? 69 and 70? Are we going to be postponing 69 and 70?

>> The staff is requesting postponement of 69 to December 15th.

>> Mayor Adler: Okay. Is there a motion to postpone item 69 to December 15th? Mayor pro tem makes that motion, Ms. Houston seconds it. Are you okay with not speaking if this is being postponed? Okay. It's been moved and seconded to postpone public hearing item number 69. Those in favor, please raise your hand. Those opposed? It's unanimous on the dais.

>> Mayor we have a postponement request for item 72, December 1st.

>> Mayor Adler: Okay. Number 70, mayor pro tem makes that motion, seconded by Ms. Gallo. Discussion? Those in favor of the postponement, please raise your hand. Those opposed? That is also unanimous on the dais, that's 69 and 70.

>> So next is 36 and 37?

>> Mayor Adler: 36 and 37.

>> I don't believe they'll be too long. Item 36 is npa-2015 00504, Lenox oaks neighborhood plan amendment, this is for property located at 6607, 07, and 09, as well as 44, 46, 58, 52, 56 bastrop highway southbound, this is to change the neighborhood plan -- the future land use map to mixed use.

[6:08:48 PM]

The related zoning case, 37, located at the same property. This is for approval on second reading only. And I would like to read in some additional changes from first reading. There are not that many. Zoning on tract 1 would be changed to csmu comp. Tract 2 would go to cs co-np, without the mu. Tract 3, lr, mu CL and np. 4 within go mu, tract 5, mf-2 co-np. In addition, permitted use in those districts where it is otherwise allowed. And the southern property line adjacent to the cemetery would be increased to 120 feet. The neighborhood and the applicant are both in agreement to the changes that I have just read in. The difference of opinion at this point has to do with the extension of ponca street. The staff is recommending the extension of that street and the applicant is opposed to that. And I believe that Ms. Almanza is here to speak on behalf of the neighborhood, and she indicated, I believe, that she'd be the only speaker. Ms. [Inaudible] is here to speak on behalf of the applicant.

>> Mayor Adler: Would you speak about the road for just a second? I understand the settlement agreement is contingent on that. So I'm trying to get just how important that extension is.

>> Well, the city is not a part of the separate agreement, but I do understand that that is incorporated into there. I believe I'll defer to the transportation staff to speak to the importance of the extension of the street.

>> Mayor Adler: Okay.

[6:10:56 PM]

>> Mayor and council
[inaudible].

[Off mic] Looked at the surrounding area, and the reason for our request to have this be a public street on the corner -- when you look at -- the subject tract is this area here, approximately. It's over here, actually. This is a public school. When you look at the transportation network around this area, by not extending this street into -- through the tract, we are cutting off potential avenues in the future. I understand the applicant has offered to make that a driveway and other things, but it takes away the city's ability to control our own public street grid. And I believe the transportation department is here as well and can talk about this. But, you know, from a planning standpoint, from a -- for the future, we don't know what the future land uses will be over here, we do have a large floodplain, we don't anticipate that there would be a street, you know, crossing this at this time. We do have a tract in here that we don't know what the future development will be. If a controlled access highway, we would be -- you can't get back that way, how do you get to school? You know, we face that challenge with a lot of developments in a lot of neighborhoods. So from a policy and planning standpoint, staff is recommending to extend the street through the tract. The applicant, of course, disagrees with that assessment, and you're going to have to speak to it. That was the basis of our comment. We held onto that for about a year. We've been in disagreement. And that's fine. I mean, they certainly are free to make their case to you as a policy body, is it appropriate to extend that street or not? We've been unable to reach an agreement with them.

>> Mayor Adler: Is it -- you don't anticipate extending the street in the floodplain area, so it's really a street to serve that one tract.

[6:12:58 PM]

>> Yes, sir, it would be to that one tract. It would also provide another access out towards the highway by coming this way, and it could go to the south as well in the future. Again, we -- you know, we're planning, trying to think very long-term. We don't know, you know, what will happen in this area, and if we limit our options to extend our transportation network, that usually comes back to be a problem later. And we run into that quite often where we've done something where with we didn't extend a street or we didn't require it or we gave variances, then we're trapped by our own planning decisions. And so, again, that's a disagreement with the applicant, and we put it before you as a policy, that in our professional opinion, our recommendation is that we should extend the street.

>> Mayor Adler: I understand. Before the applicant opens, mayor pro tem?

>> Tovo: May I just -- I apologize that I had to step off the dais there for a minute, but I came in for the second half of it, and I think I heard you say something like the extension is the access point for children who would some day live in this development to actually get to school? Is that -- was that part of what I heard you say?

>> Yes, ma'am. The school is here.

>> Tovo: Right.

>> You know, they're built here, we have Ponca Street. We've asked them to extend it to their boundary to set up for future connection from this piece back to the south. Again, we don't know, today, what will happen in this area. It's mostly undeveloped, some of it's city land, some of it's Philip. But, again, from a policy standpoint, we try to preserve our options to have connections in the future and not have driveways that can become gated, not maintained, et cetera. And so we're asking for a public street.

>> Tovo: I heard most of that, it was really the connection to the school I wanted to be sure I understood well.

>> The school is right here. This is the school.

>> Tovo: Okay. Thank you.

>> Mayor Adler: And show again, which is the subject property okay.

[6:15:07 PM]

Thank you.

>> The applicant has provided a much better map we're going to put up on the screen that shows the tract. Okay. Applicant is asking to put up a different map, so ...

>> Mayor Adler: Let me go ahead and recognize the applicant. Or you want to talk to it? Do you want to -- go ahead and talk to it.

>> This shows what the -- on your screen, you can see. You have the dotted line. It was one alignment that we've had discussions with the applicant that we can't make this alignment because we have a critical zone. Staff would agree, the environmental staff said that is -- you wouldn't be able to create this alignment, but there are other alignments that could be created to connect to this. Again, you also could come through and provide connectivity here.

>> If I may add one more thing, I'm with Austin transportation. So looking at the future, also, if the tracts adjacent to the one in question, they said the one outlining with the arrow, if they are not provided another access point, they will be limited to U.S. -- U.S. 183. Right now, ctrma has a project to change that road to a controlled access facility, meaning frontage roads limited on and off ramps. And per the plan, there is no plan to connect this street, which is Thompson lane, directly across. So, basically, anybody living in this area or using this tract would have to go two miles around to the next one, then come around back to vargas when essentially they can make the same trip with about 700 feet off the street.

[6:17:09 PM]

So that's another consideration where you're requiring drivers to go on higher speed, generally let's say red lanes, rather than utilizing the existing street network and what's existing there on the street.

>> Renteria: Mayor?

>> Mayor Adler: Yes, Mr. Renteria.

>> Renteria: When I'm looking at 183, there's -- the total is going to come -- there's not going to be a crossover right there.

>> Correct. No crossover.

>> Renteria: The only way they're going to be able to cross it is at [inaudible] Street. That's where they're going to have --

>> Correct. But if this is developed and there's no access to ponca or no shared street, let's say a future - looking at the future, this parcel is giving access only to 183, they'd be forced to taking rights in, rights out to that driveway and not be able to head south or west easier.

>> Renteria: Wouldn't they be able to extend

[inaudible] If they're going to develop that whole area there?

>> This street here? It's hard to say what exactly would be possible. I believe it's --

>> Renteria: The parents that have their kids going to that school want that street --

>> Sure. Sure. You know, and as the transportation department, we can certainly look at safety concerns, you know, adding school zone. Right now, it's -- yes, it's a narrow street with parking on both sides, fairly low traffic.

>> Mayor Adler: You said the applicant was willing to do a driveway?

>> Taking access to 183?

[6:19:12 PM]

>> Mayor Adler: No, it was ponca street. I guess that's a question to the applicant.

>> Okay. All right. Are we ready to hear from the applicant?

>> Yep.

>> Mayor Adler: Sorry, mayor pro tem.

>> Tovo: Very quickly, I just wanted to be sure I understood two things. One was a comment you made. Ponca street can't exist, can you help me what could extend? Seems the critical water is pretty wide. I'm not asking you what configuration you would approve, just what are the other options here.

>> Right. So one possibility is that, you know, ponca street, for it to be extended through this site that we're talking about tonight, if you go up to here, in the future, if this neighboring piece of land would be redeveloped, it's possible that a street could be created along the boundary.

>> Tovo: That just goes to 183?

>> Right.

>> Tovo: Okay. And then I -- councilmember Renteria, you had said something that I wanted to be sure I heard correctly. You said something about some residents in the area wanting the street, and I just -- did I hear you correctly?

>> Renteria: No, they do not want the street.

>> Tovo: Okay.

>> Renteria: Go right past their schools.

>> Tovo: Okay. All right. Thank you.

>> Mayor Adler: Ms. Pool?

>> Pool: So can ponca be connected to frontier valley drive?

>> No. We believe it cannot be extended through that quickly water zone.

>> Pool: Right, because the land development code says it can't be. So if you extend ponca, if if you can't connect it to frontier valley, how does that support connectivity?

>> It supports connectivity by connecting 183 to ponca, so rather than in the future being forced to take a right, essentially they have to go to the next planned crossover, this is roughly here, come back around, exit back off onto vargas, and essentially it's a two-mile trip.

[6:21:36 PM]

>> Pool: And who pays for that?

>> I'm sorry, who pays for ...

>> Pool: Yeah, who pays for the connection? The extension of ponca?

>> Well, the developer would pay for the extension.

>> Pool: It looks like that would be pretty expensive.

>> Mayor Adler: You're talking about from the back of the track, not from back of the track to 183.

>> Pool: I'm looking at how it can't be connected to frontier valley so how do you get the connectivity if you aren't connecting up to frontier valley?

>> The connection would -- you know, one possibility is 183 to ponca.

>> Pool: And then ponca is considered a local street. Is that right?

>> Correct.

>> Pool: And our land development code says that only arterials and collectors can cross the critical water quality zone. And so that's why we can't connect it up to frontier valley. Is that right?

>> Yes. That's true.

>> Pool: And the applicant and the neighborhood are opposed to this connection, so it sounds like it's just staff that's pushing for this. Is that correct?

>> Yes. We are in support of the extension.

>> Renteria: Mayor? The reason why they can't go all the way through, that is really a big retention pond almost, but it's really -- it's not been developed, and there's a lot of wildlife in that area. And it's --

there's no way that they could do that unless they -- it would be very expensive to even try to develop -- build a road through that area. I've gone through that area and it's a beautiful, natural preserve that -- it's amazing what you see there. So I wouldn't even think about even trying to extend frontier valley to connect with ponca.

[6:23:38 PM]

It wouldn't happen. There's no way that the environmental department would allow that, anyway.
>> Mayor Adler: Are we ready for the applicant? All right. Thank you. Ms. Glasgow. I understand Mr. Glasgow is going to speak for five minutes. I think that Susana, three speakers in your group? Three speakers.

>> Good evening, mayor, mayor pro tem, councilmembers. I'm Alice Glasgow and I'm speaking on behalf of the landowner and the developer. And I was hoping to start off with the agreement that has been reached between the residents, but I will stick to the connectivity. This map shows you the surrounding areas and hopefully an idea of what the surrounding uses are. The connectivity issue or the map you saw earlier, to get back to it, it would only benefit -- ponca street would only benefit one property owner who has -- that's the mcilhaney tract. It would divide the proposed multifamily development that Oden Hughes is proposing. It would affect trees, some protected trees and heritage tree. It would eliminate approximately 12 apartment units and it would divide the developing into two and it would not create an environment where you have a cohesive development. If we could go over to slide number 16, please. Slide number 16 shows you what the extension would do to widen -- to extend that road 50 feet wide, it would eliminate the trees that you see on that site plan, and if extending to the end of the property where you see a blue line, then that's where the adjacent property owner would have the option of extending their road to 183, which does not meet the connectivity principles that are proposed under the connectivity rules.

[6:25:50 PM]

So we would ask that you not extend the road for the reasons that have been cited and to allow the project to proceed without extension of ponca street. But there will be, obviously, access from this development to ponca street, the residents and students who reside here at this project can walk to Allison elementary school from this project, through the -- the termination of ponca street, which will have a cul-de-sac. Mayor, I would like to now switch over to the agreement that has been reached, and I'll be very brief. And if I could take you to slide number 11. The agreement that has been reached between the cactus rose mobile home park residents, Oden Hughes, LLC, and 500 bastrop highway limited is as follows. There will be a 270 day advanced notice, flexible move-out time between now and the end of -- for a nine-month period, security deposits returned without deductions or offset. Bilingual relocation assistance will be provided by a real estate professional. The amounts that have been agreed to actual to the following amounts: \$20,000 for a wide -- double wide mobile home, \$10,000 for a single wide mobile home. \$2,000 for renters for those residents who are renting single-family homes. And \$2,000 for recreational vehicles. Mayor, that concludes my presentation, and the other residents are here to speak after me. Thank you.

>> Mayor Adler: Thank you. Any questions for the applicant? Let's go to the other speakers. Ms. Almanza.

>> Cynthia Martinez isn't here today.

[6:27:53 PM]

>> Mayor Adler: Okay. Mr. King are you deferring to these other folks? Thank you. Ms. Martinez?

>> Hi. Good evening. City council members. My name is Cynthia Martinez and I am one of the residents from cactus rose mobile home park and cactus rose mobile home association. And, yes, we are here to announce that we -- cactus rose residents have come to a resident setting agreement with Oden Hughes. It is an agreement that allows our families to live their existing community. This agreement allows our children to continue to attend their current schools and to visit our local supermarkets and continue our access for public transportation. With the funds allocated to the residents, we are now working with tighten factory direct to purchase new mobile homes. We would like to thank Oden Hughes for having an open mind and willingness to assist our families to stay together and to provide a path for affordable housing. We also want to thank the councilmember Renteria and the other city council members as well for helping to facilitate the process. We also have to thank the community development commission for the resolution that insisted that families be relocated within a two-mile raid why you. So, yes, we are very happy. And also, most important, we would like to take -- thank suzana Almanza. She has been with us since day one, for this long year and a half almost. So that is basically all that we have, so we're happy. Thank you all for your help.

>> Mayor Adler: Thank you. Second speaker?

>> My name is [inaudible], resident of the cactus rose mobile home park neighborhood association. On behalf of my community, I would like to say thank you.

[6:29:55 PM]

, Mr. Mayor, and the member of the city council, and the other people that help us, and muchas gracias.

>> Mayor Adler: Thank you. Ms. Almanza.

>> Good afternoon, mayor and city council members. I'm suzana Almanza, president of the montopolis neighborhood plan contact team and the montopolis neighborhood association. And this has been a long struggle, and it has been one that we have -- we're glad to come to a resolution that we think meets an amicable resolution for all parties. But briefly, I want to just say regarding the ponca street entrance, one of the major concerns early on, if you remember on this case, is that we did not want people coming up ponca street. If you look at the map, that area is pretty much a deadlock, because you have the prairie cemetery there, the slave cemetery is there that locks everything in. You then have the major watershed -- the flooding area, the critical water zone where you cannot build. You have the Vasquez fields that is there. So you will see that Vasquez Valdez all kind of dead-end there, and it's either the cemetery that's there or it's the end of the school that's there, and ponca is a very short street. So we don't -- we would prefer that people come down 183 when we were working on the Bergstrom expressway, we worked to make sure that there would be a turn around further down from - - pass Thompson so people could turn around and come back if they were heading -- depending on what directions. So that is where some of the things that we looked at when we were addressing the issue of the Bergstrom expressway coming through the area. But we prefer that ponca not be a street that goes through. I think the safety of the children is best the way it is right now, and we don't see any more mass development happen there unless most of our elders pass away and don't leave their homes to their children and so forth.

[6:32:05 PM]

But as you know, montopolis is one of the most affordable communities that is holding on to become affordable. So as you've heard, that we have reached that agreement, and that we're going to consolidate the funds and are working with tighten factory direct to buy everyone a 2016 mobile home.

And we have worked with Oden Hughes, have done research, and looked at parks that are available and talked to the owners to provide spaces so that the residents could then choose which spaces, where they wanted to relocate to, and we're very happy that they are relocating within a 2.9-mile radius, which sets another precedence that we are going to displace residents, that we make sure and keep them in their general community, and also, too, so the children's lives won't be impacted, they're in the same school district. And I'm glad to see that there will be access to public transportation, and they're close where they can go to the food markets, H-E-Bs, they're doctors. So this is very precedent-setting. [Buzzer sounding] This is a great victory for our community. I want to say Rafaela has donated her three minutes to me, Rafaela Nunez. So we want to say this is a big victory for the community, not just the community, but I think the whole city of Austin, because we were able -- we're working toward keeping affordable housing, we're working toward keeping, making sure that our people are still in their communities, and that we worked really hard with the developers to reach this compromise. We are in a shortfall. We don't have all the funds, even with the big contribution that Oden Hughes is making, we are in a short fall. So we're going to ask that -- this is a 10-1 council and we're going to ask every council member to make a \$1000 donation and we're asking the mayor to make a \$10,000 donation, because that's 10-1, because we need to reach the \$200,000 goal.

[6:34:12 PM]

Then we're going to ask the community, we're going to ask corporate America to sponsor the families because I think that that's what's really important, is how do we give? How do we all personally give to make sure that, you know, the children's lives and the family's lives are sound and safe and in a good environment, and that's what we want to work for. So we're going to ask people to go on the website, there's PayPal, and you can go to the website and also, you know, make the contribution online or you can mail in your contribution. We'll be sending letters out to people because we want to make sure that we are all working together. And that if the city can find some matching funds -- I know the relocation, new ordinance and funding -- we went to public hearings. It included mobile homes. We don't know where it's at. It kind of lost -- it's lost somewhere. So we don't know where it's going. But there's a possibility to dip into those funds. We ask you to also look at that because we have nine months to make sure and move everyone out by that time. And so we want to make sure that we are able to purchase these mobile homes in time to get everybody relocated. So, again, we want to thank councilman Renteria, mayor, all the councilmembers that assisted in this particular project. We want to thank the Montopolis neighborhood association and the contact team because I'm just a representative, but there's a whole group of us that have been working on this issue. And for the Austin neighborhood council who has always been there, also assisting us and helping us, and a lot of people that I won't mention their names that have helped us in this thing. And more important, we want to thank Oden Hughes for really opening their hearts and their mind and looking at a vision of how we can make sure, if we're going to do highest density growth, how do we make sure and protect the residents that we are about to displace.

[6:36:15 PM]

Thank you so much.

[Applause]

>> Mayor Adler: Mr. Renteria moves the adoption of this item without the Ponca Road extension. Is that correct? Seconded by Ms. Pool. Any discussion on the dais? This is second reading only.

>> Renteria: Yes. Today, you know, is a very important day for the residents of Cactus Rose. You know, after more than a year of negotiation, you know, I want to acknowledge their effort, [inaudible] And

patience to get where they are today. You know, I was proud to pass the tenant relocation ordinance, an ordinance that will help ensure that the negotiation process of residents of cactus rose experience won't have to happen again. You know, that's a long process, and it shouldn't, so, you know, that -- that's why we pass that -- with your help, my colleagues' help, we were able to pass that tenant relocation ordinance. I also want to thank the residents, especially Oden Hughes, and my staff, for working very hard on it. They spent almost the entire nine months meeting, working with them, going door-to-door, surveys. It was just amazing the energy and time that they put in, in this effort, and I just want to say that, you know, I really, really just am so proud of my staff for what they did, and I just want to say thank y'all. And, you know, the city -- as a city, we're far away from granting mobile home residents and the renters the right they deserve. However, we're one step closer and I just want to step closer and I just want to say thank y'all.

>> Mayor Adler: Ms. Garza and Ms. Pool.

>> Garza: I just want to thank councilman Renteria.

[6:38:18 PM]

And I have to ask if we can separate the question, because I want to vote for this, but I have big issues with not -- with limiting connectivity. It's been one of my biggest issues about we keep doing this and crash Gates and, you know, cut-through streets, and that's why we have huge connectivity issues in this city, and I always -- I always also say when I'm making that argument that I live in a cut-through street. I know. I understand the issues. But can we separate those two questions?

>> Mayor Adler: We can. Let's take first then the question of ponca street up, and we'll make that an amendment to the motion, if that's okay with you, Mr. Renteria? Ms. Pool? So what we're going to first consider is whether or not to not extend ponca, which was the --

>> Renteria: Mayor I just want to say that, you know, if we require them to build that road and split their development in half, with a street right down the middle of their development, this whole negotiation probably won't go through, so I just wanted to let you know. And the reason we're building a road right through the middle of their development so that the next people -- the next owners of that land have access to -- to go through that. And I don't think it's fair that we require a development to put a road right down the middle of their development.

>> Mayor Adler: Okay. The question before us is the extension of ponca. Mr. Zimmerman?

>> Zimmerman: Thank you. I think I understand and I agree with that separation. That's good. Did I ever hear of an estimate of the cost? Plus or minus 20%, the cost that would have to be borne by the property owner if we approved requiring them to build the road?

>> I'm not aware of the price. Maybe the.

[6:40:20 PM]

Price --

>> Zimmerman: Price I really important.

>> I know you're about to vote on the road issue but if the decision is made to not extend the road, it is possible and all sides are in agreement, we could go ahead and pass this on second and third reading because the only thing holding it from going to third reading was getting signatures for a street deed which would no longer be necessary, so ...

>> Mayor Adler: Okay. Mayor pro tem?

>> Tovo: Mr. Rusthoven, thing may be a question for you, though I'm not sure. There will still be -- regardless of the street extension question, there will still be pedestrian and bicycle access for residents

of this new development -- well, let me ask that as a question. Will there be access from this site to the elementary school via a bike route or a pedestrian route?

>> I believe that's something we have to look at with the site plan since we don't have the exact layout just yet.

>> Mayor Adler: It works for the applicant?

>> The applicant has indicated when they come in with a site plan, they are agreeable to providing bicycle and pedestrian access through their property for their residents towards the school.

>> Tovo: I think that would be a really high priority. I want to make sure that they have the ability to get to school easily without -- without going all the way around. And I appreciate, councilmember Garza, your discussion each of these times about connectivity. I think those are really important issues. For me, this one is -- is a little different because of the critical water quality zone and the way it would have to be configured. So I will support the amendment, but I do want to be sure that there is going to be access and that our applicant is really committed to providing that easy route from Allison to that -- to this site.

[6:42:20 PM]

>> Mayor Adler: I come down the same place the mayor pro tem does on this as well. Usually, I'm one of the folks fighting for connectivity and extension of roads, but in this case, just because of where the water quality is, it just -- it doesn't extend very far, doesn't seem to have much more connectivity than the -- than the next adjacent road adds, with the exception of that one tract that it reaches to, and I'm not sure that you would put this requirement in just to hit that one tract. And there's an alternate way to hit that -- that tract. But I do like and would expect now with the representation made here by the applicant at the city council meeting that that pedestrian and bicycle access on the tract will be provided. So thank you for that. Any further discussion? We're going to vote on the ponca extension issue. Ms. Pool?

>> Pool: And I'm also reading here that it -- the connectivity and construction of the roads is impossible and neither are authorized by the land development code, so I just want to -- connectivity can happen in many different ways, feigning we can get it by foot traffic and by bicycle, that that works, but we don't always have to put a road through. It doesn't -- connectivity doesn't always have to be by vehicle. So I'm going to support not having an extension of ponca, in support of what councilmember Renteria is requesting.

>> Mayor Adler: I'm sorry. It's been moved to not have the ponca road extension. We'll take a vote on that. Those in favor of not having the ponca road extension, please raise your hand. Those feeling otherwise, Ms. Garza and Ms. Troxclair off the dais. Now we'll take a vote --

>> I want to thank y'all for allowing that because I want to vote for this. It's just an issue for me. Thank you.

>> Mayor Adler: All right. Second and third reading. The item has been moved and seconded.

[6:44:21 PM]

Those in favor, please raise your hand. Those opposed? Unanimous on the dais with Ms. Troxclair off.

[Applause]

>> Mayor, can I just say I am really, really gratified by the results we've gotten on cactus rose and I wanted to thank my clear, councilmember Renteria, and the folks in the neighborhood and at cactus rose for all of the work and also the applicant and working with Oden human Oden hughes, working with the folks who live there. We actually have gotten a really positive resolution to this and it's been going on for a time. It points to if we give negotiations to come to resolutions, we are more likely than not to get to positive resolutions. So I think here today with this vote and the outcomes here, that this is a vote

in support of giving negotiations the amount of time that they need to come organically to the place where everybody gets to be in the place that they need to be. So congratulations to everybody. I'm really, really happy for you all and happy for us here to have this positive outcome.

[Applause]

>> Mayor Adler: All right. Council, we have item number 68, which is a public hearing, but no one has signed up for it. So I'm going to call this item number 68. Is anyone here to speak on it. Since there's no one here to speak on it, can I ask for a vote, is there a mostly to close the public hearing? Mayor pro tem moves. Those in favor of closing the public hearing, please raise your hand. Those opposed, it's unanimous on the days with Ms. Troxclair off. So 68 is now taken care of. That gets us now to Thornton, which is item number 47. Let's call 47.

>> Jerry rusthoven, planning and zoning department.

[6:46:21 PM]

C14-2016-0039, for property 2413 Thornton road. The subject property is 1.73-acre tract squeezed between Thornton road and the railroad. The applicant is requesting mf-4-co zoning with a unit limitation of 70 units and 2000 trips per day. The staff recommendation is to grant mf-2 zoning, as opposed to mf-4. The planning commission recommendation was to grant the mf-4 zoning, with limitation of the 70 units and 2000 trips, with additional conditions that were included in a neighborhood traffic analysis that was performed by the staff. And that would be traffic mitigation to include the binding of Thornton road within 200 feet of west oltorf street to allow an inbound lane and two out of bound from Thornton road, a sidewalk on Thornton road be provided from subject property to oltorf street. The reason the staff is not recommendation requested mf-4 zoning, if the council will recall, just a few months ago, we had a case near this, request for cs muv zoning, the staff was unable to support that zoning but it did support cs mu zoning which would have the equivalent zoning density or residential density of the mf-4 category. But if you recall, staff was also recommending a wide variety of traffic improvements at that time. That case was not approved by the city council. It was denied. So, therefore, in light of that vote, as well as a consideration of the residential character of Thornton road, it is a 30-foot wide local street, at this time the staff is not able to support mf-4 density. We could support mf-2. And with that, I'm available for any questions.

>> Mayor Adler: Ms. Kitchen?

>> Kitchen: I'd like to just signal, thank you for your -- for the information. I'd like to just signal to my colleagues that at the appropriate time I'm going to move on first reading only for the staff recommendation at mf-2.

[6:48:23 PM]

Now, I'm doing that with the understanding that there's a lot of agreement out there on the mf-4, but we have to find a path to -- to actually implementing the conditions that the planning commission recommended for improvement to that road, because, you know, I agree with the staff -- with you guys, with the staff, and I think that the neighbors certainly do, that unless we can find a path to improving Thornton road, then that area will simply not -- not handle more mf-4. So I want to say that I'm going to be moving at the appropriate time for mf-2 on first reading only, and then I'll be working very closely with the neighbors and with the developer and with staff to see if we can find the funding. The issue is -- there's two issues with regard -- and, Mr. Rusthoven, you may speak to this, but am I understanding is that but my understanding, there's two issues with regard to the issues needed, there's an agreement, basically it's at the intersection of oltorf, but one of the issues is, can those changes actually be made -- is it feasible from a technical standpoint, so that's one of my questions. The other question is, you know,

where are we going to get the funding to pay for it. Because the developer's contribution wouldn't pay for the whole amount. So those are the remaining issues, that's why -- I can move it now or wait --

>> Mayor Adler: Why don't you go ahead and make your motion.

>> Kitchen: Okay. I'm going to move that we support on first reading only the staff recommendation for this -- this project.

>> Mayor Adler: To mf-2.

>> Kitchen: Yes.

>> Mayor Adler: Seconded by Ms. Pool. Is there a agreement right now between both sides to have this proceed this way, pending these conversations?

>> Kitchen: That's my understanding. Now, they have both told me that they do. Now, I know that the developer is very interested in the mf-4, and I have committed to them that I'll work very hard to try to find what -- you know, find the funding, I guess, to get the road fixed or whatever avenue we need, and the neighbors also, they don't have objection to mf-4 if we can find a way to fix that road.

[6:50:44 PM]

>> Mayor Adler: So would it be right for us then to keep the hearing open?

>> Kitchen: Yes.

>> Mayor Adler: But not have much public discussion right now?

>> Kitchen: That's right.

>> Mayor Adler: Until we see --

>> Kitchen: I don't know. You'd have to ask -- we were only going to have two people speaking, and I don't know that they'd use all the time that was set here. You'd have to ask them, so --

>> Mayor Adler: Do we want to have short -- both sides speak just relatively short? And then we'll keep the public hearing open so that when things get more in play, they can talk more? I'll let you talk however much you want to, but it seems as if my guess would be that's what's going to happen, then we'll find out really what's in play based on what either opens up or doesn't. But I'm now going to bring people to speak. Mr. King, do you need to speak on this one? Thank you. Let me then call up the applicant on this. You can open and close.

>> Thank you. At some point I'm going to have to walk through this case just to make sure all council members understand what they're voting on, what they're supporting. I beg your indulgence on this Glenn Coleman representing the applicant. It is a long one, but as Ann kitchen -- as councilmember kitchen has indicated, we're on an up note, very close to an agreement, and as usual, the problem is a little bit of if you think. Funding. Let me walk through a little bit of history of the case so you'll have some context with this motion from councilmember kitchen, which we are in support of. If I can figure out how to -- no, that's not going to happen. All right. All right. So essentially, there's essentially three positions here and I'll be brief. You understand that we are requesting a down zone from a commercial services property into mf-4co, where the conditionally limits the number of residential units to 70. Initially, the neighborhood association wanted -- had decided that they wanted that to remain commercial services, but since that time, they've talked it through a little bit and they're like, you know, we are comfortable, and some of us would prefer that this be residential.

[6:52:56 PM]

We would rather have neighbors than office traffic. But, we're still concerned about the -- about the infrastructure and, you know, who's going to pay for that, as well they should be. Staff is recommending mf-2 for the reasons they've outlined. They feel like you gave them guidance on the last case, in March, that mf-4 was -- level density was just kind of too hot, was too much for them, plus there was the issue

of the artist and some other -- displacing the artist colony and proximity to single-family and there were some other factors. So let me go back and review that a little bit. These are the current -- these are the current entitlements right now with no known change in entitlements. The developer could do about a hundred thousand-square-foot of office, good old general office, nothing too exciting. They're actually going with 75,000 square feet, a little bit smaller. And what you should take away from that, it was 90% impervious cover and 826 trips per day, as per your staff. The developer is -- I'm going to walk you through those sites. So if you look up in blue, that was the case in March. That was the Ogden Hughes case that you all sent back saying, no way, if you remember, the issue there was the displacement of the artist. For the mayor, there was the proximity to single-family, and some other -- then for all of us, there was the much, much -- this was a much, much larger project than you're seeing tonight, and you just didn't feel like the infrastructure was there to support it. Tonight we're discussing in yellow, there's no artist here, there shouldn't be, it's a junk yard, and so it won't be displacing anyone and it's also set back, a long way back from any single-family, so there's no proximity of silencety to the neighborhood. The element in Orange is a current project by this developer, by psw real estate, 104 units. They've done deep levels of arced there, 60% mfi, and this developer as part of their brand, as the way they develop, this is not some sort of weird thing, is going to extend the same levels of affordability to tonight's zoning case. So that's at co, councilmember Garza, and those are two-bedroom units, not single-family.

[6:54:57 PM]

I mean not small studios. All right. So the benefits of this case. If you grant this developer what he's asking for today, you are reducing -- I want to stress this reduces traffic by about 45%, going from 826 trips down to 460 trips. You're also reducing the amount of impervious cover, is down by about 20%. This developer is participating voluntarily in the smart housing program, which is how they roll. 10% of the units at 60% median family income at co, those are all two bedrooms. Essentially, what's the economics is that this allows the developer, instead of building a totally different product type, to capture the efficiencies from Thornton 1, that box in the Orange I showed you, and just keep on rolling. So while it's not as big a piece of fruit for them, it's lower-hanging fruit and allows them to keep going. The timing in Thornton 1 will be done probably in late January, early February, and this developer can keep on going and capture those economies to scale. There is, as the neighborhood is pointing out, a history by this council of lowering density on Thornton and this is consistent for that, and again we're displacing a junk yard, not an arts collective, and I think we'll all be glad to see that go. All right. Now, neighbors agree with psw about the condition of Thornton, and this is really the rub. Really, all of us grow that infrastructure on that -- on that -- I mean, you know, we're desperate for infrastructure, the whole city is, and even though it's difficult for staff, even though we're reducing trips here day, it's still the fact that this is, you know, to them an mf-2 street, and they feel like you gave them direction against mf-4 previously. Most of all, all of us fear that the city -- until Ms. Kitchen's office became involved, there was a lot of fear that the city would not really apply the fees generated to this index, and that's one of the things we're looking forward to working on over the next -- over the next couple of weeks. All right. So mf- -- let's talk about the mf-2 recommendation. If you -- if you -- as far as the neighborhood or the developer is concerned tonight, you could move forward with mf-4-co, which is a planning commission's recommendation --

[6:57:04 PM]

[buzzer sounding]

-- First reading, or you could move forward with mf-2. It's a placeholder and it's the same either way. Mayor, was I credited with the additional time -- thank you very much. I'll be brief. I'm on the home

stretch here. So if some of you still have concerns about that project in March, the Ogden Hughes project in March, let me just say that that is where the half million dollars surfaced. At that time, with the much larger project, and I mean a much, much larger project, it was estimated to accommodate for that project you'd need about half a million dollars in fees. This project is much, much smaller, but that 500 -- that half-million-dollar number is still with us. We've looked at all the different intersection improvements. This developer cannot spread half a million dollars over 70 units. So there -- the cost of their infrastructure, the rough proportionality is about 130. They're going to come up with another 40k to get us to that 180,000 number and that is about what they know they could widen Thornton for. Our ask back to the city, we'll be working with councilmember kitchen with this is, if you want the traffic signal, if you want the pedestrian crossings, if you want the other nice things that we truly need on Thornton, we're going to have to sit down and find a find a more collaborative way to pay for those. Certainly we're in support of mf-2, the caveat being of course that it remains open, and I need to be clear to all councilmembers, just between -- to relate the conversation that Ann kitchen and I had early this morning, if this really went forward with mf-2, we'd withdraw the project. The mf-2 tonight is a placeholder, it is an understanding that we're going to go first reading, both parties are going to show good faith, we're going to move forward with the placeholder of mf-2. But I want to stress to you since we'll be here again, that truly to have mf-2 would be about 40 units, that would certainly kill the project, and we'd revert back to the commercial service project and bill with the entitlements we have. So mf-4-co, we'd be glad to have it, mf-2, we'll certainly support that with the clear understanding that if we don't get to mf-4, we will withdraw the project and return to cs here before December.

[6:59:11 PM]

So we hope that we can all work together and find that money, and I appreciate your time and I'll take my questions. Thank you.

>> Mayor adler:quiz at this point? Thank you very much. Brian chapel. Chapel.

>> Chapel. Good evening, thank you for looking at connectivity issues. That was nice to here because in 40 years you will be talking about not doing that and creating another Thorton in south Lamar area. Glen is correct. We are pretty close in alignment on this. I'm the vice president of the south Lamar neighborhood association. Our needs are infrastructure and from our point of view it really comes down to commercial building, which is also desperately needed in central Austin or more housing, both needed. One does come with a little bit higher price tag so at this point we're trying to work with the developer and Ms. Kitchen's office to figure out the specifics of what things would cost, are they feasible, and can we move forward with that. I think we want to go to -- you know, this is -- we're all very aware of what Thorton looks like. Staff recommendation. Next slide, please. The mitigation plans. Next slide, please. These were -- and these figures were taken from the dmu case, and that's where we came up. For councilmember Zimmerman there's the dollars were fully funded on the commercial side versus partial funding on residential side. We appreciate any assistance coming up with the availability of doing residential and fully funding the infrastructure needed to support both plans. One more slide. This is where we're at now. We're very interested in looking at traffic analysis in the red areas. I would also point out that on the bluebonnet lane, which is the third arrow on the top in red, on the new south Lamar plan that roadway will be gone so you'll only have three exits in that area instead of four right now.

[7:01:17 PM]

So just remember when you're thinking about connectivity and doesn't fit right now, in 40 years from now it will look like this. Pretty straightforward. If you have any questions, feel free to does. Thank you.

>> Mayor Adler: Any questions? Okay. Thank you very much. Gets us back up to the dais. It's been moved and seconded to approve this on first reading only at mf-2. And to keep the public hearing open. It's been moved and seconded. Okay. Take a vote. Those in favor please raise your hand. Those opposed. Unanimous on the dais. Ms. Troxclair off. Councilmembers, that leaves two things left for us. I think we're going to lose the mayor pro tem here in about 15 minutes. We could work our way through dinner. I think there's some food that should be arriving sometime between now and 7:30 in cases that something that we want. But I would suggest that we soldier on here for a second. Is there a preference between those two items we have? We have nine people here to speak on the floodplain case, and we have one person to speak on --

>> Tovo: Your choice, mayor. I apologize to have to leave the dais. I need to be gone for 30 minutes.

>> Mayor Adler: Let's do the next one then, 67, let's call that up.

>> Thank you, platform, mayor pro tem, council. Floodplain administrator, item 67 is a floodplain variance request. We'll pull up here shortly. Thank you. Floodplain variance request in the shoal creek watershed, the address of the property is 1000 north la marm.

[7:03:24 PM]

Here's an overview with the property highlighted there in the middle. At the bottom of the page is sixth street. Top of the page is about fifth street. The darker color is the 25 year floodplain and the lighter color on the outside of that is the limits of the 100 year floodplain. As you can see, the entire property is surrounded by the floodplain. Here's a zoomed up view of the property itself. The existing building on the site used to be a Travis county service center, kind of like a gas station, used by Travis county staff. It has since been sold and the building itself isn't serving that use at the time. The applicant is proposing to redevelop the site and build a -- essentially a four story building. They'll have parking at grade, at existing ground level. They'll have one level of parking above that and then they'll have two levels of office space above that. So it's essentially four stories high, two levels of parking, ground level and one above that. The finished floor elevation, which is what we say the elevation that you would enter the building, is more than 13 feet above the hundred year floodplain elevation. So it's a significant distance of the finished floor meeting the minimum requirement, which is 1 foot above the hundred year floodplain elevation. However, the ground level parking will be certainly inundated by the 100 year flood, even the 25-year flood. Because of their requested development, there's a variety of floodplain variances that they're requesting. I've summarized them in the list here, looking at the backup, the number seems like a significant more number than you're seeing here but that's because some of them are combined into one request.

[7:05:28 PM]

So the main request is that the code states you can't put parking or a building that encroaches into the 25 and 100 year floodplain. They're requesting to build the ground level parking that does encroach into the floodplain and is fairly deep in the floodplain. We'll talk more about that in a moment. In addition, because the entire property is surrounded by the floodplain, their development doesn't meet what we call the safe access requirement. I'll talk more in detail about that but that's one of their variance requests. In addition to that, the code requires that development not cause additional flooding on other property. We'll talk a little bit more in detail about what it is with this development that does increase flood heights. And then the last one being, when you take an existing nonconforming structure and you expand it with increased condition space, we consider that to be increasing the nonconformity of the property and is a variance in and of itself also. So talk about the parking criteria first, again, the code requirement states that the parking cannot encroach within the floodplain. Only the intent is to protect

the occupants of the building occupying the site, parking on the site, and to minimize any property damage that may occur. This proposed development, as I said, has parking at the ground level, and for a 100 year floodplain elevation the depth of the floodplain is more than 8 feet on that ground level parking. A significant depth obviously if a 100 year flood does come through this area, property damage -- we would expect property damage to occur if there are cars parked in that area. Now, when you look at this building that they're proposing, the parking area is enclosed under the building. So one of the things when we think about when we're talking about parking variances is are -- do these cars have the ability to float downstream.

[7:07:34 PM]

Once you start getting floating did he before I in floods you're decreasing hazards significantly. In this case that wouldn't be case because the car although flooded by 8 feet of water would be contained in the building and not float off the site.

>> Zimmerman: Sorry, quick question.

>> Mayor Adler: Yes, go ahead.

>> Zimmerman: Back up there. If it's 8 feet deep, I mean, somebody has done some modeling, what's the projected velocity of that water?

>> Right, thank you, councilmember Zimmerman. So the velocity on the west side of this site is less than we would expect on the east side on north Lamar so I would expect the velocities on the west side to be significantly low, maybe on the order of 1-2 feet per second. In the street itself would be a little faster than that. So the safe access requirement, again, the reimbursement is to be able to walk from the building to the right-of-way all at an elevation that's more than at least 1 foot above the 100 year floodplain elevation. The intent of that is not only to protect the occupants of the building that may decide to leave the building at the time of the flood but protection or first responders responding to areas that are flooding if they needed to get into the building to rescue some of the occupants and as I said, while the parking depth is about 8 feet, once you get to the right-of-way, the deepest floodplain elevation would be about 9 feet so you would have to exit the building and 9 feet of water, the fastest route out of the floodplain is getting up to Baylor street to the west, which is about 100 year to be able to get out -- hundred feet to be able to get out of the floodplain. The criteria for the city of Austin is a very important criteria, essentially says that proposed development can't cause additional flooding on other property. The reasons are obviously we don't want to approve development within the city that harms other people so the intent is for health, safety, welfare of the public.

[7:09:44 PM]

As we're reviewing site plans the applicant and our staff look at the engineering models that are depicting what this proposed development would do to the floodplain heights, and we had a lot of discussions about this with this applicant and their initial submission had a building size that was slightly larger than what's proposed now. We talked a little about the impacts on the floodplain and they could - they agreed to make a revision to the building design to pull the south east corner back to the west a little bit and that certainly minimized, decreased some of the impacts it had on the floodplain. So I felt like that was a very positive move in order to try to minimize the impacts. But in the end, they couldn't engineer the model or engineer the building such to indicate that it's causing zero rise. When we're looking at no adverse impact our criteria is for 0.0 rise, 0.00 rise, sorry. This proposed development is indicating that the increase in the floodplain would be .01 feet. So that's not a lot. We get that. But the point of the rule is to show some indication what would this building have some impact on the floodplain. The answer is it would have some impact but it is a minimal impact. But with shoal creek

floodplain being as wide as it is, other properties would be impacted, both city right-of-way as well as other properties. This was a picture I found actually on the shoal creek converses site. We don't often get pictures of flooding because a lot of time it floods at night so when we find them it's pretty important for us to hold onto because it does help represent the situation that's happening. In the bottom right-hand corner of this picture, that's the existing building. That's the Travis county -- was the Travis county service center. The red fluid you see was hydraulic fluoride stored on-site, barrels spilled over during flood and obviously caused issues in addition to flooding.

[7:11:48 PM]

Now we have some pollution going on within that area. So this is after the peak of the flood so you can see the creek over on the left-hand side is, you know, reducing in height but still obviously a lot of flood water on north Lamar and on portions of this property. So to summarize our findings, the request is to encroach with the parking on the floodplain. The property does not have safe access as we measure it with the land development code, and the development does cause very minimal impact to floodplain elevations. Additional occupancy in the floodplain, again, we think of that as conditioned space. That's why that variance is in there. In the packet we talked a little bit about partial hardship is the way rephrased it. The reason why we felt like we needed to do that was because there are a number of different variances here, and so we felt that there is a hardship for some of those variances and there's not for others. And I'll speak to the safe access compared to the parking variance request. We feel that there is a hardship condition that exists for the safe access criteria because when you have a piece of property that is completely surrounded by the floodplain and all the right-of-way around it is in the floodplain, there is -- there's no way for them to meet that rule. I mean, -- that rule. If they were to do it, we're talking about some agreement with the adjacent landowner to get access to their property in this days with 9 feet deep of flooding would have to be some sort of bridge. That wasn't a plausible analysis to do. So when we look at properties that are completely surrounded by the floodplain we feel [indiscernible] Exists for safe access. The reason I said partial, on the flip side when we're considering parking variance and parking 8 feet deep in the floodplain, we feel that hardship doesn't exist because maybe there could be some reconfiguration of the design so ground level parking wouldn't be required.

[7:13:58 PM]

Now, obviously that may, because of the parking requirements, may reduce the conditioned space that you build on the lot. Nonetheless, that could happen and so we just -- didn't feel that the hardship condition existed for that parking variance. Because of the risk of the property -- because of the flood risk that this proposed development would exhibit, the depth of the water within the parking area, the no safe access criteria, that's why staff is recommending denial of the floodplain variance. We did put a draft ordinance in your packet and I just wanted to key in on a few of the conditions that we did place within that draft ordinance. The elevation certificate is certainly a survey document that confirms that they built the building to the height they said they were gonna build it, 13 some odd feet above the 100 year floodplain, willing to do a drainage easement that excludes the building itself from that drainage easement. There's a FEMA map change requirement, goes into the adverse impact that the property is causing. There's a map change requirement they would go FEMA. Structural certification is essentially saying the building they're designing with withstand the forces of the flood waters. Sometimes we get it early on, sometimes at the end, so we placed it as a condition because we haven't received it yet. The flood hazard application for occupants I think is significant because if in fact there is going to be parking that's developed on this site and it's 8 feet deep, then we were looking to the applicant, the owner or tenants to make sure that the people that are occupying that building understand the risk that they're

getting into by parking there. And that could come in the form of some signage that's placed at those parking spaces, and it could come in the form of some documentation and -- that they provide the tenants and occupants so the people understand what the risk is, they understand where they can get information about the -- about flooding in order to make safe decisions if there is indeed a flood that occurs.

[7:16:16 PM]

Happy to answer any questions. I know the applicant is here to speak as well.

>> Mayor Adler: Help me -- as a council, we've been real reticent to grant variances in floodplains, praises because we've been spending so much money on floodplain buyouts. This one is a really small impact. There have been others that have been granted along this. What were the conversations like with the city council for the granting of those?

>> For the other variances that this council in particular has discussed? Or other variances in this area.

>> Mayor Adler: Other ones in this area.

>> There was a floodplain variance for the property just to the west of this one. They share a property line. That property, while they were -- they did have safe access to Baylor street, which is much higher, they, again, were -- had some parking areas that were in the floodplain so the discussion from staff to the applicant was, I believe it was about 6 feet deep at the maximum and it wasn't 6 feet uniform across the bottom level parking but, again, it was about the risk and it was about the education of that risk. The lack of the safe access variance was significant. That's because that's an important one. Plus that development did not cause adverse impact to the floodplain elevations. There were actually -- there's one other one just a little bit to the north of that lot that was an administrative floodplain variance. Again, they met all the floodplain rules. They just happened -- their building happened to encroach in the floodplain. They met safe access. They weren't parking deep in the floodplain. It was all elevated a little bit higher. Those are two in this very immediate area that I can think of.

>> Mayor Adler: Okay. Any further questions for staff? Mr. Casar. Then Mr. Zimmerman.

>> Casar: So just -- thanks for putting -- you know, always being so thorough with the presentation so I want to make sure I've got the reasons for your recommendation boiled down to -- it's not because of the safe access issues because you find they have a hardship on that front.

[7:18:29 PM]

It has to do with the parking being in that floodplain and there being some measurable rise in the floodplain?

>> I would say that our recommendation actually hinges on both of those because our recommendations for floodplain variances are based on risk. Even though the hardship condition may exist, that doesn't mean that the risk isn't there. So the fact that it doesn't have safe access into walk out of the building and get to dry land, you're walking through 9 feet of water, despite the facts that a hardship, that's a significant risk. The risk of having parking in the floodplain that's 8 feet deep in and of itself is a risk also. So it's the risk factors that we consider when we look at our recommendation.

>> Casar: And so explain the hardship part a little bit more to me. Because, obviously, potential risk to first responders is significant. But I don't know much about owning property entirely in 8 feet of floodplain, and so -- 8 feet deep of floodplain. So talk us through a little bit how hardship factors in and - into that part of your calculation.

>> So in the backup material, there are five conditions that we discuss. And those five conditions come from FEMA from our agreement to be part of the national insurance floodplain program of the many ordinances that we have, it collides those five conditions. It's essentially FEMA saying here are five

things everybody should consider if indeed you want to think about doing variances for building in the floodplain. And one of those conditions talks about companionship it states that -- hardship and it states if a property has hardship condition that may be cause for a community to consider a floodplain variance. Doesn't mean that it has to, but that's -- FEMA puts it out there that they understand that hardship conditions do exist. Sometimes the floodplain rules significantly impact the property where they just can't meet the rule. However, what they stress to us is that even though that hardship condition exists, try to minimize flood risks orient property as best you can.

[7:20:39 PM]

Being 13 feet above the floodplain is just one example of how you'd do that.

>> Mayor Adler: Ms. Houston -- actually, Mr. Zimmerman I had recognized.

>> Zimmerman: Thanks. The other variance you mentioned, we've had a few famous floods, right, in the last few years. So had you kind of studied what happened with the other variance that you had granted close to this? Close to this property? The one you just mentioned a minute ago.

>> The one to the west of this property? So that property was probably under construction or near under construction at the time of the memorial day 2015 flood. There may have been some flood water on that property, but it didn't -- wasn't quite high enough to get that high in the picture you saw you can see it kind of getting to the back of this lot, but not quite encroaching it so much on the lot to the west.

>> Zimmerman: Okay. Another quick question is I never understood why there wasn't a difference in your criteria between, you know, residential property and commercial property. You know, the fact it's much more dangerous, right, if it's in the middle of the night when flood waters come in and people might be asleep and not realize what's going on and that's pretty different than the commercial, you know, district where, you know, people are there business hours during the daylight typically. Is there a reason why that's kind of not part of the mix?

>> From a staff level perspective, we're just looking at risk, and the risk to occupants of the building.

>> Zimmerman: Okay.

>> Understanding that if it's a commercial only building, then hopefully there's people not in that building as often and that's a positive thing. But it doesn't come into consideration in what we're just talking flat about risk.

>> Zimmerman: That's kind of the point, the risk that somebody is there at nighttime, you know, things are riskier in the dark, right? Things are riskier when it's 3:00 A.M. And you're asleep and flood waters start coming up. Anyway, I appreciate the answer. Thanks.

>> Mayor Adler: Ms. Houston.

>> Houston: I too appreciate every time you come before us.

[7:22:41 PM]

It's always so thorough, and you make it so easy to understand. Was there a reimbursement by the seller, I guess that's the county, to disclose that this was in a floodplain and that they had had flooding?

>> I can't speak to that directly. I do know, you know, there are some -- the disclosure laws, it does exist that you have to state whether property has had flood -- had flooded before but I don't know exactly on this transaction. Maybe the applicant could help us with that.

>> Houston: Thank you.

>> Mayor Adler: Council, before we call the applicant, the mayor pro tem needed to leave the dais. She needed -- but she'll be back here 7:45, I think. We have pizza back there in these two cases so I'm gonna have us break at this point so mayor pro tem can be back with us. If that's okay. I apologize to everybody. But let's get back here in half an hour, say, five till 8:00, so half an hour. We're in recess.

[Recess]

[7:48:55 PM]

[Recess]

[Recess]

[Recess]

[Recess]

[Recess]

[8:01:14 PM]

>> Mayor Adler: all right. If the council is back in other places they should come forward. So we don't quite have a quorum yet.

>> Tovo: Mayor?

>> Mayor Adler: Yes.

>> Tovo: While we're gathering, I just wanted to apologize again for having to step off the dais. I had made a commitment that I thought would fall during our dinner break, a commitment to read a proclamation and I just wanted to say while I was gone I was able to hear all of our testimony until you broke so I'm glad we had those resources. The proclamation I was doing -- I think we have a few more minutes. The program was for the heart gallery of central Texas and it will be here between Monday and Friday next week. These are photographs of children who are sibling groups or older children waiting for families and these are children who live in this area and for whom the agencies that are working with them are seeking to find families, adoptive families. So look for that next week at city hall.

>> Mayor Adler: Cool. Councilmembers, we now have six on the dais. In the break, I talked to the applicant, who listened to the testimony, and asked if I would support him having another brief period of time to be able to study this a little bit more and I said that I would and that I would move to postpone this. I'm gonna be gone December 1 but December 8 I'm banning. So I would move to postpone this item at this point, keeping the public hearing open until December 8. Is there a second to that motion? Mr. Zimmerman seconds that. Is there any discussion? Those in favor of postponing this until December 8 please raise your hand. Those opposed. It's everybody on the dais with half of us gone.

[8:03:19 PM]

Garza is gone, Gallo is gone and Troxclair are gone. The others voting aye. Okay. That gets us then to the last thing on our agenda, which is the Marbridge matter.

>> Good evening mayor pro tem, council.

>> Mayor Adler: I'll forget otherwise, for the record to make clear, we did not take a vote on item number eight today, which was the development agreement on pilot knob because we don't know what that agreement needs to look like or not until we go through this next round of discussions. Consistent with what we passed today. So we did not take action on item number 8. Robert.

>> Thank you. Andy, development services. We are here for a second and third reading of a project incentive agreement for the Marbridge tract.

>> Mayor Adler: Okay.

>> We have in your backup the ordinance as passed on first reading with the amendments that were read in. Staff was here for -- is here for questions.

>> Mayor Adler: Is there a motion to approve this item number 71 on second and third reading?

>> Kitchen: I'll make the motion. I think I have an amendment to it. I'm not quite sure exactly how that works but I make the motion with an amendment, okay, and the amendment relates to the findings that we want to put in the record.

>> Mayor Adler: So we would include -- councilmember kitchen moves adoption of this item on second and third reading with the added findings of fact which track the -- and memorialize the agreement between the applicant and the neighbors.

>> Kitchen: Yeah. And I'd like to read those.

[8:05:22 PM]

>> Mayor Adler: Okay.

>> Kitchen: Basically my understanding from the applicant and affected neighbors is they have reached an agreement on a number of items. And those items are, first, language that they'll -- that they will enter into an agreement to ensure that the light does not spill beyond the parcel -- parcel, such as requiring full shield be of light fixtures, et cetera. The second item relates to noise -- excuse me, noise ordinance restrictions. Language in line with the noise ordinance restriction so that if there are gas pumps they aren't the type with loud video or audio. The third one is enhanced landscaping buffers at the edges of the parcel, to mitigate light and views from the development from surrounding residences and the last is limiting the height to one story. That one I do have a question about because I would think that could actually be in the language of the ordinance so that's the question.

>> Mayor Adler: Is there a second to that motion? Right now in the findings of fact, Ms. Houston seconds that.

>> Kitchen: Okay.

>> Mayor Adler: Okay. So we have a motion and a second now.

>> We were fine right up until the one story. We had agreed to a 60-foot height limitation.

>> Kitchen: Okay. I have different information but I think the neighbors are here. So perhaps I have that wrong.

>> Hi, Allison McGee and I live in the community next -- or adjacent to the property. And it wasn't so much one story as we wanted it to be generally a standard height for a grocery store as opposed to something they could do a legal of parking and a grocery store on top.

>> Kitchen: Okay.

>> They had proposed 60 feet. I don't know if 60 feet is the height of a standard grocery store. Seems kind of high to me, but maybe that's something we can work out when we do our agreement.

[8:07:26 PM]

>> Kitchen: Okay.

>> And if I could add too one of the things they have not agreed to is not doing gas pumps as a neighbor I still really feel strongly that gas pumps are not an appropriate use. But I'm not sure if we can get them to agree to that or not.

>> Kitchen: Okay.

>> Mayor Adler: Do I understand your motion to be the 60 feet height?

>> Kitchen: Yes.

>> Mayor Adler: And to be cleaver, that will be in the findings of fact, the whereas clauses as opposed to the resolved part or the order in the ordinance. Moved and seconded. Ms. Pool.

>> Pool: I wanted to check with the applicant. He and I had a conversation about -- this is just a small little item, but there was the issue of the fee that wasn't paid back when the pca was filed. It was \$4,700

at the time. It's \$7,000 give or take now. Is this something that -- it's very small amount but it would allow us to make sure we were trying to track with our process as much as possible.

>> I'm sorry, I missed the first part. The fee for?

>> Pool: The pca application fee was not paid originally it was \$4,700 back in June of 2014. It's about \$7,000 now. Would that be an item that the applicant would be willing to pay? For the pca?

>> At the -- then when we filed it fee or -- I don't know. I have to does my client.

>> Pool: Okay. And the fee at the time was \$4,700. And now it's at about \$7,000.

>> 7,000. Why y'all continue your conversation, can I confer with my client.

>> Pool: Thank you.

>> Thanks.

>> Kitchen: Mr. Mayor, I think what we were going to do as part of these findings is have the developer confirm so when they get a moment they can come back up here.

[8:09:40 PM]

>> I'm not sure I -- I look to your lawyer as well. It wasn't a fee when we filed this.

>> Pool: Are you saying that there wasn't a fee in existence or you were not charged a fee?

>> There was no fee in existence.

>> Pool: So I have information that varies from that, that --

>> Well, you'll have to tell me who that came from. I suspect I know, but I'll have to tell me. And then we'll figure out who is right.

>> Pool: Okay. Well, we will --

>> Mayor Adler: And my sense of this is --

>> If we were supposed to pay a fee and didn't, we will pay the fee.

>> Pool: That's what my understanding was, so if you were not supposed to pay it, then I'll --

>> There you go.

>> Pool: -- Pull it back, but, yeah, I'd like to see what --

>> Mayor Adler: I think what we saw that was -- was that maybe under the circumstances of this particular case because it was laid out --

>> Pool: Because of the time it was filed.

>> Mayor Adler: The applicant may not have had the obligation to pay the fee in this one and I think what councilmember pool is asking for is that notwithstanding, she's asking whether or not this applicant would pay that fee.

>> First I'd like to know whether there was a fee because then we're making a contribution to the city, which is another interesting concept.

[Laughter]

>> Pool: There's either a fee or there is not, so let's get to threshold question.

>> Andy, development services. This application came in the day after or very close after the vesting ordinance passed. As with any new ordinance that, you know, creates a process and an application, staff has to do a cost of service study and come back to you and bring a fee forward in our budget and be adopted or bring a special ordinance. When it came forward it didn't have a fee tied to it. We have since adopted one as you pointed out and adjusted it for cost of service as well. When this came in there was not a fee on the books there&there's not a way for us to charge that at that time.

[8:11:45 PM]

In addition as part of the backup of some of the ordinance there was a special council exemption from paying fees if you filed in June. That was part of another case. That was very -- you know, it was -- it's a

mess, but that was in there. So he was not -- there was not an obligation of the applicant to pay a fee when he filed this. It's a long story. But at that time there was not a fee.

>> Pool: Can I just ask I guess a sensitive question. Have we fixed our procedures so that we don't have these gaps or voids between -- in these -- I know the pcas are new, the ordinance was -- it's not even maybe two years old. But we have some gaps in the process.

>> Absolutely. There are some -- we have now rectified that. There is a fee on the books. But when we pass a new ordinance and we pass new things, if we have not included in our budget, we do not have a way to actually charge it. And I think this was not included in the budget at the time. This was before I was involved in this, so there wasn't a fee. It -- a fee got put in place in October in the next budget so there was a three, four month window where there was not a fee. That's not unusual when we create new things that we won't have a fee because we have to bring a fee ordinance directly to you to create that.

>> Pool: So the fee in this case wasn't part of the budget conversation earlier that year?

>> No, ma'am, it was not.

>> Pool: Ongoing.

>> Mr. Guernsey might be --

>> I was the official at the time and there is no fee when that came in.

>> Mayor Adler: Okay.

>> Mayor Adler: For the record going back then to Ms. Kitchen, Mr. Subtle, would you confirm that that was -- the agreement that Ms. Kitchen read out loud was your understanding, 60 feet at the end --

>> Kitchen: Let me read it again just to be clear. What I want to do is read it as the finds and just have you -- findings and have you confirm this is the agreement that you have and that you and the neighbors will enter into an appropriate document to confirm that agreement.

[8:14:01 PM]

Okay? So there's three items. First, the arrangements related to full shielding of lighting. Second --

>> We actually gave them exact language, full shielding or -- full shielding or equivalent down lit so as not to spill over the property.

>> Kitchen: Second thing is related to the noise ordinance restrictions.

>> We would comply with the city's noise ordinance even though we're outside of the city.

>> Kitchen: And the third and last thing was the enhanced landscaping buffers.

>> It was very specific, 15-foot landscape along Brodie with 2-inch trees planted on 50-foot centers and then there was the height limitation of 50 feet.

>> Kitchen: That's in the ordinance. The 5 feet is actually in the ordinance that we're passing. So these other items I understand that y'all will be entering into an agreement that an -- an agreement that a legal agreement between y'all that's enforceable.

>> Right. We will do a covenant with their homeowners association, putting those items in there.

>> Kitchen: Okay. Thank you.

>> Mayor Adler: Okay. Allison McGee, you would also confirm that that's your understanding of the agreement?

>> Yes, it is. And I'd just like to add that, you know, this is putting a burden on the citizens to enforce this and that comes with potential financial burden as well. So we've been having discussions. We're not sure -- HEB, their representative can't commit but we're hoping they'll find some way to provide financial assistance in case we are ever having to take this to court so that it doesn't become a financial burden on citizens, the neighbors or the HOA.

>> Mayor Adler: Thank you. Do you want to say anything else before we take a vote? You were signed up to speak.

>> No. I really appreciate that they've been working with us and that the councilmembers have been working so hard on this. This isn't something in our neighborhood that we've come up with against, having to work on these types of development cases, and we're not trying to stop development in any way.

[8:16:07 PM]

We're just really trying to do something that is not adversely impactful on our neighborhood so that our property values and quality of life and also the impact on the environment is mitigated as much as possible. So thank you.

>> Mayor Adler: Great. Thank you. It's been moved and seconded to pass on second and third reading, item 71 with the addition of the findings of fact as we've discussed. Is there any more discussion before we vote? Those in favor please raise your hand. Those opposed? Mayor pro tem voting no, Garza voting no. The others voting aye with troxclair and -- with troxclair off the dais. Others voting aye. Those are all the I'm sorry that we had. This meeting stands adjourned.

[Adjourned]