

# City Council Regular Meeting Transcript – 01/30/2014

Title: ATXN2

Channel: 6 - ATXN

Recorded On: 1/30/2014 6:00:00 AM

Original Air Date: 1/30/2014

Transcript Generated by SnapStream Enterprise TV Server

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[04:03:57]

>> Good morning. I'm mayor leffingwell, we'll begin today with the invocation from pastor rodney shaw of the new life pentecostal church. Please rise.

>> Let us pray. Gracious god, I want to thank you you today for allowing us to live in this wonderful place called austin. Indeed the eyes of texas are on this city, but it's not only the eyes of texas, the eyes of our great nation, the eyes of this world are focused on what happens here. And many times, that begins with what happens in this room. Lord, I pray for those that are gathered here today to do work, I pray that your grace would be on them. Because we live in this great place, we are stewards, we're not owners, but we have been placed in roles of management over what you possess and what you own. I feel as if we could say as

-- as that woman of old ester said, we have come to the kingdom for such a time as this. Lord, as deliberations go on in this room today, as decisions are made, I pray they would be made with grace, dignity, respect and honor, and that our diversity would not be a source of contention, but it would be a source of strength to us. And I pray that these things would be accomplished that you would be glorified. And because I can't do anything other, I ask these things in your name, lord jesus, amen.

>> Mayor leffingwell: Amen. Thank you, pastor. Please be seated. The board is present and I call this meeting to order on january 30th, 2014 at 10:05 a.M., We're meeting in the city chambers. We'll begin with the changes and corrections to today's agenda. To items 2 and 46, add the phrase "recommended by the electric utility commission." Item no.4, we postponed until february 13th, 2014. Item 7, 11 and 37 are postponed until february 27th, 2014. Item no.36, at its 4:00 p.M. Time certain a postponement of this time to march 6, 2014 will be requested. Item 44 is with drawn, and item 47 and as a second cosponsor, councilmember mike martinez. Our time certain items for today at 10:30, we'll have a briefing on the potential finance and payment assistance options for small business and minority and women-owned businesses. That's a follow-up to council resolution 20131024-055. At 12 noon, we'll have our citizens communications. At 2:00 p.M., We'll take up our zoning matters. At 4:00 p.M., Public hearings, and at 5:30, live music and proclamations, the musician for today is cheryl murdock. The consent agenda is items one through 20, plus items 41 through 51. There are several items pulled off the consent agenda. I'll go through those in a moment. First I want to read in the appointments to our boards and commissions and waiver statement. To the asian american quality of life advisory

commission, kim is councilmember riley's nominee, and to the sustainable food policy board, mindy cooper is councilmember riley's nominee. There are no waivers scheduled for today. Item no. Three has been pulled off consent by councilmember tovo, and items 18 and 48 are pulled off consent by councilmember spelman. Those are all the items I have pulled off the consent agenda. So I believe councilmember sterling, you had pulled

-- you had designated no.21 to be pulled, but that is not on consent. All right. So we have one speaker on the consent agenda, david king. Good morning mayor and councilmembers. Thank you for this opportunity to speak to you about item no.20, which is the raddison hotel's request for so-called bat deck. I'm for a public hearing on that, but what I'd ask the council to do is to make sure there's a thorough vetting of that request and I'd just ask for you to consider a couple things to help vet that request, to ask the questions, what are the projected annual revenues for the 140 seat deck that's proposed, what the percentage of gross revenue will be given to the parks department, will the gross sales data be verified by an independent entity. Why is the lower deck that is accessible only 320 square feet versus 2400 square feet for the upper deck that's not accessible. The lower deck is just 13% of the size of the upper deck. The lower deck on parkland also is for the restaurant. And what -- if a group of 30 people from the public want to use the upper deck that's on parkland, will they be allowed to do that. And how will the contract requirements be enforced and verified? And how will the public access to the decks be promoted and advertised to park users and the public. The old deck that was there never had a sign indicating that it was for public use. And is park getting a market rate for the commercial use of that park land. And for each of the next 10 years, what percentage of park's budget is projected to be used for commercial use of our parks. My concern is it's funded more through commercial use of our parks, the public interest will take a back seat to commercial interest. Thank you.

[04:10:24]

>> Mayor leffingwell: Thank you, david. Gus peña, we have another speaker signed up. Gus peña.

>> Good morning mayor and city councilmembers. My name is gus peña, I'm here to speak about the economic development loan permit. That no.4 has been postponed, am I correct?

>> Mayor leffingwell: Let me see. No.4 has been postponed to february 13th.

>> Okay. February 13th. Okay. Anyway, that was the item. (Simultaneous speaking).

>> Mayor leffingwell: Go ahead and finish.

>> Anyway, no, I just wanted to make sure that on the economic development issue, and I'm going to just speak briefly to it. If it is an opportunity to employ people, let's employ the people not primarily from east austin, but they need jobs out there. And what I'm passing y'all is I'm a former federal discrimination complaint investigator for department of treasury and justice, and I'm not going to speak to the item, it's been pulled item no. No.7 regard to firefighters, I'm just concerned that the firefighters haven't got a pay raise. Thank you for the opportunity to speak and that's all I want to say and keep up the good work and we need affordable housing. Thank you, bye.

>> Mayor leffingwell: Item 7 is also postponed. Do I entertain a motion to approve the consent agenda. Moved.

>> Mayor, if we have staff here I'd like to ask a question about 37, the postponement of the holly master plan at festival beach.

[04:12:39]

>> Mayor leffingwell: 37 is postponed until february 27, 2014.

>> May wror?

>> Morrison: I think at 4:00, we'll be postponing it as I understand.

>> Mayor leffingwell: That's correct.

>> Are you sure? It doesn't reflect that on our changes and corrections. 36, it looks like is going to be postponed at 4:00.

>> Mayor leffingwell: Item 36 also. I've got item 7, 11 and 37. I read that into the record postponed until february 27, 2014.

>> Right. And I have a question about 37.

>> Mayor leffingwell: Well, it's really not appropriate councilmember, but I'll give you that latitude.

>> I appreciate it. I'm happy to take it up at 4:00 but I believe it's on our consent agenda. My quick question is this, I've certainly heard the request for postponement and understand the reason why, but I just wondered if you could explain what the process would be going forward in terms of allowing for community input? Many of those who have been involved have contacted us and wanted to be sure that they would continue to be involved in a stakeholder process if there is one.

>> Good morning, mayor and council, cora right, assistant director for the parks department, just to bring the council up to date, as you might remember, the last time the item was before council, there was a request, and council granted a postponement. After hearing from a segment of the community who requested additional time to get more information from their community. Some set point, staff have met with that group. It's the east town lake neighborhood association, and we met to hear their concerns. And basically, very high-level update on that is that in their opinion, there was segments of the community who were harder to reach, who were not able to participate effectively in the process. There was request for a 90-day postponement. Staff discussed that and rather than do a 90-day postponement, staff has requested an additional 30-day postponement. The process for moving forward would be during the 30-day postponement, the east town lake neighborhood association is going to conduct additional outreach to their own constituency, gather that information, itemize what their specific concerns are, bring them back to the parks department. We will add that additional community input, along with all the input from all of the other stakeholders, and present that information at the february 27th council meeting.

[04:15:22]

>> Mayor leffingwell: Thank you. I think that's sufficient. There's really no error on the changes and corrections. It should have said that item threfns will be recommended at postponement. And that's when we should be asking that question.

>> Thank you. I promise not to ask it again. I think that provides enough information.

>> Mayor leffingwell: Motion's on the table. All in favor aaye. Opposed say no. Passes on a vote of seven to zero.

>> Mayor leffingwell: Item no.3 pulled by councilmember tovo. We have no speakers.

>> Tovo: Thank you, mayor. This is an item related to the jw marriott, and I did ask a question and answer about it, that I'd like to follow up on. This is a reimbursement of costs to a contractor involved with the jw marriott hotel and it's in an amount of \$295,000. The question that I asked is

- as all of us up here know, we are involved in a legal situation with the jw marriott, and it's my understanding and your question and answer response confirmed it, that they are
- that the city has communicated to the jw marriott owners that they are
- that they owe the city, by my account \$1,176,741, and that breaks down in the \$911,000 in transportation fees. These were right-of-way fees from the start of the project through february 12th, 2014, and planning and development review indicated that the amount owed to them is \$265,676 change, and so my question for staff is really at this point, as we are owed, you know, more than a million dollars for this project, what are our options with regard to the item before us today, which would be to provide
- really provide additional money for the same project? And my second
- the second part of the question would be, how typical is that? If we have someone who owes
- or a company that owes the city more than a million dollars, do we typically provide them with any kind of reimbursement that would, in effect
- no.

[04:18:05]

>> Councilmember susan gross, I'm an assistant city attorney, and I'm in the austin energy division and I handle chilled water contracts for austin energy. A couple of years ago, austin energy entered into negotiations with austin 18 hotel, the entity that manages the

- or will manage the jw marriott hotel. As part of those negotiations, there are terms in the contract that deal with who owns certain equipment required to serve this customer. Ordinarily, austin energy owns the heat exchanger, which is a piece of equipment that goes in a mechanical room located on the premises. It's a long lead item. Ordinarily austin energy would buy that piece of equipment, but in this instance, we didn't have a final contract with the entity, so jw marriott opted to buy the equipment in advance with the understanding under the contract that they would be reimbursed that cost, assuming that austin energy had council approval for that expenditure. So if council approval is not granted, then that will affect the cost of chilled water that will be charged to the jw. They'll actually pay a slightly lower fee for the chilled water if they are not reimbursed the cost of the equipment. Tovo thank you for that re

--

>> tovo: Thank you for that response. So if I understand the response then, we are not legally obligated to approve this amount here today, but there might be a financial cost to the city of not doing so?

>> Yes. It would be a wash to the city if it's not approved.

>> Tovo: So are you

- are you certain that those costs

- I guess I would like to know how closely those costs

- you know, whether the city would be losing money by not absorbing this cost, or whether it

- whether it is, indeed, a wash over the life of the contract?

[04:20:17]

>> Well, the contract provides that the expense will not be paid unless we are provided receipts indicating the expenditure has already been made by the JW Marriott, so it is just a reimbursement. The city will receive ownership of the equipment under the terms of the contract whether or not it pays the money in advance, but the method of paying the JW Marriott will be different. It will be paid out over time as a portion of the bill that JW receives.

>> Tovo: I see. So one way or another, the city of Austin will be reimbursing for the amount of 265,000-some-odd dollars.

>> That's correct. Because it's equipment that Austin Energy will own and maintain over the life of the contract.

>> Tovo: So they'll either authorize that maintenance today or take it off of the rates that they pay for chilled water.

>> Correct.

>> Tovo: Thank you for that explanation.

>> Councilmember Tovo, if I could just add, I'm defending the city in the lawsuit, and the Austin Energy issue is really separate and apart from the challenges in the lawsuit, which are the constitutional challenge to our right-of-way and licensing fees. It really does appear to be a separate issue, a separate contract. It appears that it would be cleaner to keep those separate.

>> Tovo: Though I understand carrying connect 57600

[04:32:01]

>> internally to offset the potential impacts. In October of 2013, council did revise the set of may electrics for chapter 380 agreements to include a prevailing wage requirement, city living wage floor, health insurance benefits and extension of benefits to domestic partners. At that same council meeting, council approved a resolution that asked for this report. Moving forward as we started embarking upon that resolution, we did identify, and I think council also heard the greatest need for assistance, financial assistance, as within the construction industry, so that's where we focused our efforts.

-- Efforts. Specifically, the resolution asked staff to explore financial and payment assistance options for small minority owned and women-owned businesses, including a collateral pool if funding is identified. The intended participants of a program would be small businesses, including [inaudible] that either contract with the city of a prime or a sub, or contract with companies that receive chapter 380 economic incentives with the city. Included in the resolution and as we proceeded upon responding to the resolution, we did identify a few terms that had

-- questions about the definitions, so I included this slide for your reference with some of the common terminology that we will be using. To highlight the process that we took, we first created a multidisciplinary staff committee, it included myself and some of my team members at SNBR, the contract management

-- management department, law department, purchasing office, comptroller's office, the economic development department and city manager's office. I'd like to specifically acknowledge members in the

city management office, she was essential to this process. She does a super b job in helping us. We started researching and conducting outreach to other cities and lenders to get an idea of what programs existed and looking for best practices and models that we can replicate here at the city. We held a series of public meetings, including three meetings of the nbe/wbe advisory committees, four stakeholder sessions. To highlight some of the stakeholder feedback that we heard, we heard first and foremost that access to capital is the signature barrier for small construction businesses. That small construction business owners often lack mobilization funds. The new chapter 380 requirements, wage requirements could pose additional financial challenges for small businesses to compete for work, that the turnaround time for loans needs to be quick for the construction industry specifically. The loan process should be flexible and not too burdensome, that funds should be easier to access than conventional loans, and stakeholders also urged the city to consider programs that we had building of this building's city hall. So we have a chart here that identifies some of the potential program models that we considered and it acknowledges where they would apply to either a chapter 380 agreement or to a city of austin contract or both. And I will go into details with each of these options. The first option would be an independent loan program. This could apply to a chapter 380 recipient or the city of austin. In this scenario, the city would approach an independent loan profit lenders and financial institutions, banks, the lenders would voluntarily offer loans with more flexible lending criteria than traditional loans. When using as an example the program that the city of san antonio used, as a result of their diversity plan about a year ago implemented this program, the mayor and the city approached several institutions and asked them to participate in this program to allow for more minority-owned businesses, construction businesses particularly, to have access to capital. One of the benefits of this approach, the lenders already have expertise in making credit decisions. So some of the concerns that we heard is that the interest rate could still be too high, the funds could be inaccessible, and that the traditional lending process moves too slow specifically for the construction industry. This wouldn't include any city costs. If the city did choose to expend some funds, we could choose to dedicate an fte for dedication and outreach services for this program. The second option that we considered is to contract with a third-party administrator. This could apply to both chapter 380 projects or city of austin projects. In this scenario, the city would use a competitive procurement process to select financial institutions to offer loans with flexible underwriting terms. In this scenario, the city would only pay the administrative costs of the loan programs, so the costs to administer the loans of the third party. The city funds would not directly be lent out, and in this scenario, they would not be at risk for loan defaults. During the procurement process, the city would establish parameters for the loan program, including such things as flexible lending criteria and a quick turnaround time for the loans. There are

-- we did hear concerns from the stakeholders that the scenario that the interest rate could still be too high, the funds would be inaccessible and the traditional lending process moves too slow for construction. In terms of city cautioners program, it is dependent how council chooses to move forward in terms of scope and size. The funds would be paid for the financial institution for program administration. We would need to assess our ftes internally, but we'd see a potential of identifying at least the need of 1fte to serve as a contract administrator for this contract. In the report, we estimate that if the city chooses to expend money in this route, we would advise anywhere from 250,000 to \$500,000. The third option is similar, in that the city would contract with a third-party administrator, but the city in this option would also actually fund the loan pool. This could apply to chapter 380

agreements or the city of austin. The city could possibly ask the financial institution to match the city's funds the city's putting forward, and our thoughts on this option is that the city would fund the pool for an initial period, likely two to three years subject to future 57 appropriation

-- appropriation, of course, by council. And as the fund is established, as loans are paid off, as fees are paid, it could create a revolving door so that the fund is continuously funded in the future and grows.

Again, during the procurement process, the city would establish parameters for the loan program, looking at the eligibility requirements and the turnaround times specifically. In this scenario, the city funds will potentially be at the risk of default, which could deplete the pool. And, again, the city cost is dependent on the size and scope of this project. The

-- it would require funds to

-- for the financial administration to provide the administration of the loan pool, and it would also require the grant or the seed money to start the pool. And here it could be anywhere from 250,000 to a million dollars, depending on the size, the amount of loans that the city would like to proceed with, and depending on whether or not the city asks the third-party to match our initial funds. We do think that there is a need for additional fte to serve as a contract administrator for this approach. Our fourth option would apply only to city of austin

-- apply only to city of austin because the city is the owner in these scenarios. The first option is what we have identified as a quick pay program. It would establish a quick pay program or qpp, a new acronym for us. The

-- in this scenario, the prime contractor would invoice the city for quick pay funds initially on the project. Subcontractors would apply for the qpp program, we would apply small business standards, so nbes and wbes would automatically qualify. Subcontractors would then invoice the prime for work as it is completed, and the prime would then turn around and pay the sub with those quick pay funds within 10 days of the work being accepted by the city. The prime would then invoice the city on the next regular pay application to replenish the funds. This program was designed similarly to the construction of city hall. The benefit of this is the payment ak

-- occurs once the work is performed and accepted which reduces the risk of city and it's easy to implement on city of austin projects. We do anticipate that it may cost the city more contractually, due to the increase cost of general conditions for primes, but it's an unknown cost. We're not sure what that potential increase would be. There wouldn't be any additional staffing resources, as we

-- if we were to embark on this approach at this time, but as I mentioned, it could result in a higher overall bid or contract cost. Our fifth option is also for city of austin projects, and we're calling it the mobilization prompt pay program or mppp, in this scenario, the prime contractor would submit pay applications twice a month as opposed to once a month. And which would do this at critical mobilization points. So we're thinking the first few months of work on the contract, or of other critical mobilization points arise in the life of the contract. In this scenario, both the prime and the sub would receive payments more quickly during that critical mobilization phase. Again, we think it would cost the city more contractually due to the increased condition cost for prime, and it could potentially increase staff charges to the capital projects due to the review and processing of extra pay applications. We don't anticipate additional staffing needs at this time, but again it may result in the higher overall bid and contract price. The final option that we considered is also for statutes project, and

-- city of austin and this is the city enhancement program. This is the program that the city applied to the

expansion of the convention center when we built it out years ago in this scenario, the prime contractor would invoice the city for cash

-- city for cash enhancement funds. If they are approved, the prime would advance funds up to 5% of the subcontractor's contract amount to fund mobilization expenses. The loan would be paid through deduction of progress payments to the prime. It's similar to the convention center expansion project. In this scenario, subcontractors can receive access to funding during critical mobilization phases. And the administration is an internal city of austin program hell sevens ensure the

-- helps insure the funding is assessed in a timely fashion. Sit a higher risk option to the city because it is loaning out funds prior to work being completed. And in terms of city costs, we would anticipate the need for a lending specialist to hire as a part of city staff in order to review and approval process for the loans. Also we're anticipating an additional contract administrator would be needed to monitor the contracts. This could potentially end in a higher overall price. Our seventh option is option where the city would fund a loan guarantee, or collateral pool

-- and/or collateral pool. In this scenario, and this could apply both to chapter 380 agreements and city of austin projects. In this scenario, the city would establish a loan guarantee and/or collateral pool fund, the city would deposit funds into a specific bank account to serve as a loan guarantee and/or a collateral pool

-- collateral pool fund. The fund could cover up to 50% of the borrower's obligation to the bank if the borrower defaults

-- borrower defaults. In this scenario, the city's funds are potentially at risk of default, which could deplete the pool. In regards to city costs, it's, again, dependent on the choice of the size and scope of the program, however we do anticipate the city would need an additional fte with lending expertise to administer the program, and then as well as the money earmarked for the loan guarantee and collateral pool fund. We're estimating this could be at 750,000, but, again, it would be the amount that council chooses to embark on. There's also the concern and the potential initial shakedown for the collection of any

-- initiation of any potential default loans. Our final option, option eighth is similar to option 7, however in this scenario potential chapter 380 recipients would fund the program. We want to make sure that we included it for evaluation. In this scenario, the loan guarantee and/or collateral pool would be created by fees paid from a chapter 380 recipient. It could be a percentage of the chapter 380 incentive package. In this scenario, the risk of a default shifts from the city to the chapter 380 companies, however, we did cite a concern from both our economic development department and some of our stakeholders that collecting a fee from our chapter 380 companies would mitigate the incentive. It could quite a bit of time to build a significant fund. If you look at the number of chapter 380 agreements we have in place

-- agreements we have in place, each year it's a small number and could potentially

-- potentially require a large fee in order to create a fund that is a value. We do also anticipate that the city would still need an fte with lending expertise to administer the program and oversee the collection of fees. For in terms of staff's recommendations, we did want to present to you some recommendations that could be possible for both chapter 380 agreements and city of austin projects. And we also wanted to give you some options that did have some funding requirements, as well as ones that don't have funding requirements. The first recommendation we'd like to make is that we do have a program as in

option 1 that is modeled after the city of san antonio's program. There are no costs with this program. The city would simply approach third-party institutions and ask them to participate voluntarily in a program, in an independent loan program. The st. Of san antonio's program is still in its infancy stages, I want to stress that, and they're in the process of administering their first loans. We also recommend that if funds are identified, the city does consider funding a third-party administrator and loan pool, and want to stress again, that we'd only recommend doing this with a competitive procurement process to select a lender, and in this instance, the city does support and supply the seed money to get the fund started. We also recommend option no.4, which is our quick pay program. This would apply to city of austin programs. We're recommending this option because it allows for a sub to be paid when work is completed and accepted but prior to a prime contractor receiving payment, so it does still eliminate quite a bit of process time for the sub to receive their payment. We do recommend to start with that we apply this to project that use alternative delivery methods, and we recommend that because in recent areas where we have an alternative delivery method such as see at risk in place, the city is establishing a long-term relationship with the prime or the cm in those scenarios. We also recommend option no.5 which is that the city establishes a mobilization prompt pay program. This is, again, is the option that allows for bimonthly payments at critical points of mobilization. We recommend to start with that we look at construction projects valued over \$2 million. This gives us a good starting point, and allows us to make adjustments as needed moving forward. This concludes my presentations. I am open to any questions or thoughts. Thank you.

[04:49:21]

>> Mayor leffingwell: Mayor pro tem?

>> Cole: Thank you, for submitting this to the committee yesterday and for all the staff work that has gone into this. I just have a couple of questions. You mentioned in option no.4 and option no.5 that it may cost the city of austin more contractually due to increased general condition cost for prime. And I didn't know what you meant by "increased general conditions."

>> In these two scenarios, since it would require the prime's involvement to administer -- or to assist with these programs, we're anticipating that they could potentially include in their bid prices the cost to them to administer those programs.

>> Cole: So it would just be more work for them.

>> Exactly. More administrative work.

>> Cole: And then you also talked about in option 4 how this would

-- the quick pay program would eliminate the process time, because the subcontractors would be paid when the work is completed. But prior to the contractor receiving payment, and I didn't understand the logistics of how that would work.

>> In a normal city of austin project, the sub performs the work, invoices the prime, the prime receives that invoice and turns it over to the city, it's reviewed by the city, accepted, and then the city runs it through our payment process getting the application approved, the payout approved and moving forward, so it takes a series of

-- it takes some time. In this scenario, we would be taking them at a time on the city's administrative side, the sub would perform the work, submit the invoice to the prime, the prime would submit it to the

city for approval, and if it's approved, at that time the prime would pay the sub.

>> Cole: I guess I want to be clear about the problem that we're trying to fix. How much time are we generally talking about that a sub is not being paid so that we are having to look at these options.

[04:51:28]

>> We talked about that, our stake holder group did, and it varies from project to project. It varies on the complexity of the invoice. The city

-- the city reviews invoices as quickly as possible and turns them around for payment, but there's a series of steps from going from project manager into our accounts payable department and into the controller's office for payment. But it could be anywhere from shaving of a month, it could be longer if there's concerns with an invoice. When the prime invoices the city, they're invoicing for a series of work for many subcontractors. So if there are any concerns or any questions about any one of those steps, it could hole up the process.

>> Cole: So generally, from visiting with the stakeholders, did you get the impression that this would shave off 30 to 60 days on the ability to be paid?

>> I think that's a safe assessment.

>> Cole: Okay.

>> Hi, Brenda Truva, I'm the director of the city's contract department. With the quick pay program, we would expect that you would see time saved and the sub would be paid quicker. It could be as little as 10 days or

-- because

-- or to two weeks, or it could be more time that they would get

-- they would get their money faster. Than when the prime would get paid. It's a challenge, because in each of these projects when the subinvoices the prime, as soon as the city has accepted that work as being complete then we would authorize the prime to pay the stub. And the prime would turn around and invoice the city in their next available pay application. So there could be two weeks to a month time lapse from when the prime would be submitting that work for payment to the city. And so when you factor that in, plus the city's processing time for that pay application, it's a significant amount of time for the subcontractor. It's hard to give it specific days, because it's going to vary based on the scope of work and the work that was performed and how quickly the city can accept it. So it's kind of a nebulous concept there.

[04:53:49]

>> Cole: Well, I know the stake holders participated in the process. And they made specific recommendations for, I believe, it was option 4 and option 5. And I'm wondering if that was for a particular reason, such as they ended up with payments quicker than they ordinarily would than the other options?

>> And that's definitely the goal of the quick pay program, is to facilitate getting the funds into the hands of the subcontractors faster than going through the standard pay process.

>> If I could add, in our every day work, we do hear there's a need for quicker payment across the board

from smaller businesses. So I think the interest in 4 and 5 addresses some of those needs.

>> Cole: Okay. Because you've given us options 1, 3, 4 and 5, and so I want to make sure that 4 and 5 are clearly

-- 5 are clearly understood since they were recommended by the stake holders at the meeting. And I think from your testimony that the primary meeting that these were recommended by them is because they would result in payments faster.

>> Correct.

>> That's correct.

>> Cole: Thank you, mayor. Councilmember Martinez.

>> Martinez: Thank you, mayor. First of all, start off thanking Mrs. Lara, Mrs. Truza for putting this incredible report together. And just want to remind council that this actually came from the economic incentive policy discussion. What we heard in those discussions from small contractors was, you know, if you make us pay \$11 an hour at a living wage, we kind of have to finance that work until we get paid from our primes, and it's a harder strain on the small minority contractors, and so we listened to that advice. And in the final analysis of the economic incentive policy, we directed the city manager to help us figure out this collateral pool loan program. And so here we are today, and we find that it's not only a good thing for 380 agreements, it's actually a good thing for all city projects, and in some specific cases, you know, when we have larger scale infrastructure projects, what we found was exactly what was being told to us, one of the hardest obstacles for small businesses and small contractors is quick access to capital, so that they can bid on jobs, so that they can go for better work. With these recommendations, I think what we're going to see eventually is some tremendous support for our small business communities, our small and minority contractors, and I look forward to bringing this forward. My only question is, outside of thanking you, is how do we proceed forward now? Is this something staff's going to bring back in the form of a policy, or is this an item from council, an item from the committee, I just

-- because we're not posted for action today, and while folks are watching this and wanting us to move forward with it, I want to give them a sense of time

-- time frame of when it's going to be put in place.

[04:57:17]

>> Pointing at the city manager.

>> I'm asking for help from my boss.

>> Mayor Leffingwell: In light of the fact that staff made specific recommendation.

>> We're happy to bring those forward for council's consideration.

>> Martinez: And if we can just get a timeline. I don't know how much time it would take, but there is a small consideration for financial impact, maybe a half fte or quarter fte, we're just not sure at this point. I would just say that I'd be fully supportive of a potential budget amendment or if we have a vacancy that can be utilized for that position, however you all feel is best, but I think for me, it's just about getting the program up and running so that we can determine the success of it and then revisit whether or not we need to make changes. There are some concerns from contractors that the loan program isn't going to be a quick enough turnaround. We had Mr. Lender from people fund actually come down to the

meeting and testify that they want to be a part of this. They want to help small and minority contractors and businesses, and they have construction experience, and they believe they can turn a loan around in five days or less, which I jokingly said, but I think it's true, would take us a lot longer to do something like that if we were running the program. So I just

-- I want them to know that we are moving forward with this, and it will be back for full action very soon.

>> That's correct. Councilmember Tovo?

>> Tovo: We had an opportunity the other day to ask questions and explore in some detail of these policies, I wanted to ask staff, did every office receive a copy of this document.

>> Yes.

>> Tovo: Great. Because it has a lot of the detail that is referenced in the powerpoint, but not necessarily in that depth, and I just want to add my thanks. I think we've got some great options here, and I think one of the real benefits of the report is that it does provide options that range from those with

-- at no cost to the city, to those with some cost to the city. You've given us a real good range of options, and I believe that the package that you recommended will really have a good result in helping us work with small businesses to be as successful as they can in this community. And I wanted to point out that our mbe/wbe committee did recommend the option that's the staff brought forward, that we did take action and make a formal recommendation of those. So thanks again, for all your work.

[04:59:41]

>> I will just clarify they didn't take formal action. Sit for their consideration at their meeting, but just a timing of getting a report to council, I wasn't able to get their formal action.

>> Tovo: I should have said our council took formal action and it will go before the citizen committee this week. Thank you. Councilmember Spelman?

>> Spelman: Thank you, mayor. I see I want to be sure I understand these issues. The issue is a subcontractor completes work, but because they have to go through the prime contractor to get paid, instead of being paid on a 30-days net basis as we typically pay primes, they don't actually get money until 45 days, 60 days or longer after they complete the work. Is that a summary of the situation.

>> Correct.

>> Spelman: Okay. That means that we're ethically not entitled to the flow on 45, 60 or a longer periods, we ought to be paying on a 30 day's debt notice basis after the work is completed, but if we pay out 30 days rather than 45 or 60 as we currently do. It is going to cost the city some money. Do we have a sense of how much options 1, 3, 4 and 5 are going to cost the city?

>> Well, if I can just make a slight correction to your logic there.

>> Spelman: Please.

>> The subcontractors do perform the work, and then it can often take them sometime between 30, 45, 60 days to receive payment.

>> Spelman: Right.

>> The city, however, has a contract with the prime contractors, and we do pay our bills within the time frame specified, I think Howard just told me we're averaging 30 and a half days.

>> Spelman: I knew eye guys are working on it.

[05:01:41]

>> Working on that half day. What that means for the sub, they're performing the work, they turn the invoice into the prime, the prime then turns their invoice into the city at their next pay application. The way with construction, we meet

-- we have basically two prompt pay days a month, and so each of the general contractors will be paying, you know, if they want the first prompt pay cycle or the second prompt pay cycle, and that allows us to manage the workload internally to know we're going to get all these construction invoices, they're going to get reviewed and processed in a certain amount of time in order to meet that 30-daytime frame because they 57600

>> actually a front-end delay. Front-end delay is sub, hands off the information, we please to work to the prime, then the prime, supposed that's instantaneous, the prime can then submit the invoice, but only at the uniform date, which are twice a month, so depending on which of the two uniform dates they've connected 57600 .

[05:03:43]

[Technical difficulties]

>> we don't have the abilities to make a partial payment, so we have to reject the invoice in whole rather than paying pieces of the invoice, so under a scenario like the quick pay program, they would be able to

-- the subcontractor would be able to invoice the prime, the city inspector is out there and has approved and accepted the work, their 10-day payment clock starts then.

>> Spelman: Okay.

>> Rather than adding the time for the prime to invoice the city and the city to pay the prime and the prime to pay the sub. So it's potentially very significant. So it could be as much as maybe a two-month time period, it could be as little as 10 weeks

-- or 10 days, kind of depending on when they hit the cycle as things are going.

>> Spelman: Right. From 10 weeks to 10 days is about what we're talking about.

>> Potentially.

>> Spelman: That is going to cost the city some money. Do we have a sense for what the costs are going to be?

>> We don't. You can see the impacts in a couple of different arenas. Because we are expecting the prime to help facilitate this program, because they're going to have to pay their subs potentially more frequently, we're going to expect our bid prices to go up.

>> Spelman: Yeah. Q. But because of how we do our bidding, we wouldn't necessarily know what that dollar amount is, because that would just be folded into the overall lump sum price or the overall unit price that we're getting for the different aspects of the work. With the mobilization prompt pay, which is the concept of paying hitting both of those prompt pay cycles during peaks of high mobilization, you also have the potential of added staff charges. So the inspectors are having to go through that stack of paper more often, and so that's just additional time charges.

>> Spelman: Right.

>> But it's hard to know

-- you know, we haven't done any calculations about what that might look like, because when you're talking about those initial few pay applications that we're getting, you know, they perhaps might not be as complicated so it might not be as much as a pay application that's further down in the project that requires more staff time. It's hard to judge.

[05:05:58]

>> Spelman: Yeah.

>> So we can see some

-- we would expect to see some slight increases in the staff charges to the capital project, and we would expect to see some slight increases in the proposed amounts from the general contractors, but, you know, it's going to be hard to put a dollar to that. The reason why we kind of chose the thresholds that we did with both of those projects, with the quick pay program, we're seeing the alternative delivery project, because while those are relatively few in number, they're pretty significant in their impact, and so with those, we might be able to get a better sense for the impact to if overall

-- the overall project and we might be able to gauge whether or not it's something would be feasible or what the impact would be if we chose in the future to apply the quick pay program

-- apply the quick pay program.

>> Spelman: Okay.

>> With mobilization, we talked about 2 million above. I looked for several years at the number of construction projects that we do and kind of how they break out, and that gets us to roughly 30-ish percent of our construction contracts, hit the 2 million above mark. It varies in some years, it's more like 25 percent, in other years it's a little bit more than 30 percent, so roughly about 30 percent. And so we figure that that would not be terribly significant when it comes to the staff impacts, enough that it would be prohibitive in trying to implement this program.

>> Spelman: Okay. I'm thinking in particular, if we're talking about a 10-day turnaround time and our current turnaround time is 30 days and a half, that's going to require significant changes in our procedures.

>> That's not a 10-day turnaround for us, that's the contractor who's paying them. So it's not staff who's cutting extra pay applications with respect to the quick pay program.

>> Spelman: I'm sorry. The quick pay program was actually going to be shortening our time period to pay off.

>> No. It's shortening

-- what the quick pay program allows is at the beginning of the contract, we will

-- you know, through our contractual documents, we will provide some funding to the prime contractor to serve as basically the pot that they will pay the quick pay applications through. And then that pot will be re

-- then that pot will be replenished as they invoice us through the regular pay application process. So we're not the ones paying more quickly, that's on the general contractor's side. That's why we would expect the bid process to be a little bit higher.

[05:08:29]

>> Spelman: We're paying the usual time, but you have to pay quick.

>> Yes.

>> Spelman: There's no way to tell on option 4 what the increase is going to be, we can reasonably expect some but we don't know how much. Does anybody else have a quick pay program in this world.

>> Not that we have found.

>> Spelman: In the short run at least we can expect a slightly higher increase just because it's new for our contractors and they just don't know what they're getting in to.

>> And keeping in mind, this is alternative delivery as well. So when we're putting out a bid for construction manager at risk, we're initially funding that prescrubbing shun phase, -- preconstruction phase, and so it will be built into these projects as we go.

>> Spelman: Sure. Is there

-- well, is there a way of estimating after we have implemented these programs how much they have cost us after six months or a year?

>> I think that

-- I think we can see what we can get from conversations with the prime. I mean, part of that is going to be the

-- you know, part of the benefit of using our test pool, so to speak, as the alternative delivery contract is that we do tend to develop a stronger partnership on those contracts based on how the contractual agreements are set up and how those works on those. So it's possible we can ask them and have them help us gauge that, and I think that's reasonable and I think they would be cooperative on that.

>> Spelman: How many contracts have we done?

>> Well, for cmar contracts, we do maybe a couple a year, but these would also potentially apply to design build and competitive build proposal, so I think we're forecasting maybe sixish a year on alternative delivery and I think that's going to give us a good pool to see how this is going to progress.

>> Spelman: These are cases where we're establishing a closer personal relationship where the prime contractor than usual anyway, so we can reasonably expect them to go along with us. Last question, we need to contribute seed money for a revolving lon fund. Do we have a

-- loan fund. Do we have a sense for how much.

[05:10:35]

>> It would purely depend on how the size and scope that council would like to approach the fund.

What we did when we

-- we reported an estimate of 500,000 to a million dollars. When we did that, we looked at an average loan of about 50,000 for a small business, some would be more, some would be less, but that was our balance-park estimate. Our thoughts were we'll start with some funds, we'll see how many loans that gets us, and at that point we can choose to appropriate additional funds or how we're going to move forward.

>> Spelman: What's the likely term for these funds, for these loans.

>> It could vary. In talking to the microlenders, and actually we have a couple of microlenders in the audience to answer any specific questions, but in our research, it varies. There would be some very short term. In fact, several said that what they learned is several construction companies just need 57600no carrierringconnect 57600 .

[05:12:55]

>> Riley: I understand we couldn't generally know how much of an increase that is causing. Couldn't we just ask the respondents to submit bids telling them how much their bid would be with the quick pay program and without, so that we know for sure?

>> I could see if we were doing this on an isb or an invitation for bid, which is most of the construction contracts that you see coming before you. I could see us potentially structuring the language to ask them in the form of an alternate. So if you were doing the bid based on the standard -- the standard construction documents, it would be x, and if we had the quick pay program, it would be x plus y. I could see us doing that. I'd have to think about how we would incorporate that into some of our other delivery methods. On design build and construction manager at risk, because of the nature of those contracts in the procurement processes, I don't know that we would be able to get a price specifically for that there.

>> If I could elaborate a little bit, one of our stake holders was our general contractors association and the executive director from that association, and mrs. Truva did have some specific conversations about these proposals as well. He didn't anticipate a huge burden based on the prime. He didn't offer a specific number of what the additional cost would be, but we certainly didn't get the impression that it would be overly burdensome on the prime.

>> Riley: That's good to hear. To the extent that we did hear any further concerns, I'd encourage you to complete exploring opportunities, just so we will have a better idea about the impact this requirement is having.

>> Of course.

>> Riley: I also wanted to ask about option 7, the loan guarantee and collateral pool fund. You mentioned that in the report

-- well, one disadvantage is that it would cost a lot of money for the city. But on page 28 of the report, you also noted that many cities, well, most programs including phoenix were established with federal funds, treasury department, small business credit initiative funds rather than ear marking city's general funds, so I just wanted to ask, did we

-- I know option 7 isn't one of the runs that y'all are recommending. Did we explore the availability of federal funds for either the loan guarantee, collateral pool fund as calculated in option 7 or any of the other options that we're considering?

[05:15:27]

>> We had quite a bit of discussion of utilizing, leveraging other funds. The reason we didn't recommend an option that included federal funds of any sort was we heard specific feedback that any time you use federal funds the process becomes too burdensome in terms of accessing the firms. That being said, we

also acknowledge that we as a city already are using federal funds in a series of our programs, including, for example, the community development bank program. And we outlined that in the report. We have a list of all the existing funds where we have those opportunities, so there are some programs that provide small businesses loans leveraging federal funds, we just didn't feel that that met the need of this particular stakeholder group and what we were charged with.

>> Riley: Is there a way that the city could secure federal funds for seed fund for instance.

>> We can certainly look into that, and I think that's something we can

-- as we move forward with what we come back with the recommendation for council for action, that could be potentially an option, but we just acknowledge that we will need some city seed money in order to have quick and easy access to the funds as well.

>> Riley: I hope you'll work it in seeing whether there are some federal funds for any of these options.

And the last question is a general question about the recommendation that we're seeing. I see that we're recommending 4 of the seven options before us, and I just want to ask if y'all have given thought to how well it's going to work to rollout four of these options simultaneously and is there going to be some confusion involved in this in putting up four programs at once. Have you considered trying one or maybe two and seeing how that works before going out with all four or do you foresee any issues with the confusion in trying to get four out at once.

>> I think our next step is going to be to go back to our internal stake holder groups, our city departments. We all need to assess the resource we have. We were waiting to hear the interest from council and the direction to go, and now that we hear that, we have the ability to look at our own staff, departments and 5b89 and in bringing back, we'll keep you abreast of what our next steps will be and if we recommend that we actually implement one at a time, as opposed to all four concurrently.

[05:17:46]

>> Riley: Okay.

>> I do see we're looking at the options, two are weighing heavier at the chapter 380 approach and two are weighing heavier on the city of austin program. It's possible that we can collaborate those two areas to work simultaneously, but we're going to need to be flexible, I think.

>> And the final recommendation jels, I'd encourage you to consider your conversations with all the stake holders to see whether there is any issue about rolling out multiple options at once, and whether it might be helpful in some ways just to move a little more carefully in rolling out one or two options working carefully with the stake holders as we go forward. But I'll leave that to you as you get to the final set of recommendations.

>> Thank you.

>> Mayor leffingwell: And I'll just say finally, I have a lot of concerns about this. We keep doing things here on this dais that add both complexity and cost to the process. And I don't care

-- we're talking about cost to the city, we're talking about cost to businessmen, we're talking about cost to consumers. What I've heard today is we really don't have a good feel of what those costs are in any of those three sectors, but I will say this: I'll want to know

-- with much more clarity, I'd like to see much more clarity on that, on all three of those cost factors.

We're about to consider two more items today that are going to add costs, add costs to housing and add

costs to potentially to the city budget. And all of these things kind of add up over time. There's also the issue of interference, to me interference in private business and transactions between two different business folks. I'm very trep day shus about that. And it's going to be very, very difficult for me to support an item that requires a budget amendment to -- for seed money or anything else. I just want to let you know, I have concerns about all of those areas. This is a result of another action that the council took to kind of interfere and introduce complexity in these processes, and it just kind of builds on itself as we go along. That's really all vi to say about it. You don't have to respond. But we will see what happens when you come back. Councilmember morrison?

[05:20:18]

>> Morrison: Just a brief question. In terms of potentially adding a little bit of effort to this year's budget, it just brings up a more general question for me, are we going to be getting from city manager a mid-year report on our expected revenues and expenses.

>> You will be and I know that our cfo and our budget officer are prepared to do that. I think it may be coming down schedule next audit and finance committee. I'll late elaine indicate whether that's correct or not.

>> Yes, sir. Good morning, council. Elaine hart, cfo. On february 5th at the audit and finance committee, we are posted to present our year end and firt quarter results. The presentation will include the austin energy, enterprise fund, austin water utility and the general fund, and following the presentations we will also issue a written report that includes the other city funds. So next wednesday we'll have a full report for you.

>> Morrison: I'll look forward to it. Thank you.

>> Mayor leffingwell: Okay. Thank you. Brings us to item 18. Councilmember spelman? No one signed up to speak.

>> I have just a couple questions. One of them is about the way

-- largely about the way we talk about project connect going forward, see pl siller and mr. Gross coming forward, and that's perfect. One of the question is what are we going to actually get out of this. We've been talking in ctag and twig for the last couple years about subquarters, quarters and subquarters. And also looking at a

-- after looking at a lot of subquarters within the central area, we've boiled down our preferred alternative is a term of art I shouldn't be using yet, we haven't got to that point, but we know which subcorridors we want to run a train on, but the logical extension of our train of thought is talking about two subcorridors, we have the high land running through downtown and the east river subcorridor. Seems to me now that we have landed as to where we want this string that we're going to put a macaroni on, then maybe we should stop talking about two subcorridors and let me explain why. There is some people in the community who believe that we are still going to be choosing between these two. It's my understanding that what we're talking about is a train which is going to connect these two that we're going to go somewhere north of the university in the direction of high land mall, maybe we'll get there, maybe we won't get that nar. We'll be

-- far. We'll be going south of downtown, maybe we'll get as far as 71, maybe we'll only get as far as pleasant valley, maybe we won't even get that far, but we're going to go out east riverside. And the plan

is go south, go north, connect them both to downtown. Is my understanding correct?

[05:23:33]

>> Yes, sir. Robert Spillar, director of transportation for the city of Austin. That is the plan.

>> Spelman: Okay.

>> The next phase will be to analyze alternative routings within that riverside to high land corridor that goes through downtown. And then to determine potential phasing and a preferred routing for the way we go. The item no.18 specifically talks about having our partner with us to use some of the routing, and I can have Scott Gross, our rail manager talk a little bit more about that. But, yes, it is to analyze an initial investment somewhere within that single corridor that happens to reach south as well as north. The verbiage is a holdover from phase 1. As we move into phase 2, we'll start talking about a single routing. Do you want to answer that?

>> Scott Gross, Austin transportation department and project connect. We are in the process of transitioning to

-- now referring to the study areas of central corridor priority and the central corridor priority area. This was drafted, you know, before.

>> Spelman: Sure.

>>

-- I believe y'all had taken action on the previous proposal anyway, and we were just trying to cover all our bases and be specific.

>> Spelman: I have no problem with the language. I just want to be sure that what we're

-- the signals we're sending to the outside community are very clear. We're talking now, we haven't got the locally preferred alternative yet, but we're beyond the two separate subcorridors phase, and so now we've got priority area.

>> Priority area central corridor priority area.

>> Spelman: Which generally is that string from high land mall on the one hand to something like east river on the other end.

[05:25:33]

>> Right.

>> Spelman: And we're hanging some macaroni along that string but we don't know how long it's going to go.

>> Right. The identify is to identify basically an end-to-end project and look at phasing options and to use the the envision tomorrow plus tool with UT's health is just one of the factors that we're going to use to make that phasing decision and understand the benefits on that project.

>> Spelman: I'm glad I understand it properly and for some of those watching, they understand it more so than they did before. Since we don't know how long the macaroni's going to go and we don't know exactly where we're going to position that macaroni on the string, my apology for using this metaphor, it's not mine, it's Kyle Cately's but I it's a really smart idea, but will we get different kinds of results geared to different links of Mack Ronnie and different take macaroni and terminal.

>> We would expect so.

>> Spelman: If we decide to go the full north route, we'll know what kind of economic impacts we're going to be dealing with depending on how we position that macaroni and how long it is.

>> Right. We'll be looking at return on invest 789s, so the costs will be different as well as the benefits.

>> Spelman: Exactly. I'm glad we're going to get different kinds of results and this is actually going to feedback into the decision we're going to have to be making in the next few months is to lounge the macaroni goes, how long we're

-- how much we're willing to pay for and where we're going to put it. Last question. And this is a little off subject, but since we're on this subject, this is a logical place for me to take up another issue, which has come up in the outside world, which I wanted to be sure I get closure on. There are a lot of people who believe that we called it wrorntion and what we

-- insped of going up north of the university in the direction of high land mall, perhaps along airport boulevard or some place close to that, we should have gone up lamar instead. And for a variety of reasons which I don't want to revisit, this council and cap metro and the board and pretty much everybody's who gotten their nose in this project, going up to high land mall is probably the best way to go right now. But the question I've got right now is does this

-- the fact that the high land mall route is not too far away from lamar, does choosing airport boulevard or that area as the first route make it impossible or difficult to justify going up lamar in some future date?

[05:28:18]

>> No. No, and the project connect vision plan does include routes up both corridors.

>> Spelman: Okay. So if we go up airport, for example, the fact that airport intersects with lamar, that fact that conceivably, we might choose a route which goes all the way up to lamar and airport, I don't think we're going to do that, I don't think it's quite on the plan, but it could at some future date go up that far, that could be a junction for another line at some future date we could have running up and down lamar.

>> It could be or we could continue to head in a north/easterly direction. We know that there's a lot of demand towards pflugerville and towards 183 and 290 intersections, so there's lots of different ways to go from there.

>> Spelman: In your judgment, however, the fact that airport and lamar are only depending on where we're talking about a mile or two apart does not make it impossible for us to envision having a line up lamar and also a line up airport boulevard.

>> No. In fact, we're already planning for two high-capacity services and which we've iminin re -- implemented. We'd only be talking about upgrading that service eventually in the lamar corridor anyway, so we're already headed in that direction.

>> Spelman: Another way of thinking about this is metro rap is providing one service, all we would be talking about then is the next logical stop belong metro and that would be put a train down instead at some future date.

>> It's along the way, yes.

>> We've always continued to invest in that corridor and the expectations is that we'll continue to as

demand grows and as the needs grow, that we'll continue to put service out there that meets it.  
>> And I'm supposing what the future council will do in a few years when we get to that step. I am presupposing this is something that's on the table for us to be studying, because as I think we directed you to do a few weeks ago.

[05:30:22]

>> Yes.

>> Spelman: Great. Thanks very much. Scott, I appreciate it. [One moment, please, for change in captioners]

>>

-- then there's a consideration we would have to tear out two lanes of lamar boulevard to do this right now and i, for one, am not willing to go down that road at all and I don't think anyone on this dias would be. Sort of extraneous information. I'm going to this opportunity to put it out there and support a motion to approve this item.

>> Move.

>> Motioned by spelman, seconded by myself. Council member tovo.

>> Tovo: We have one question about why the contract itself is not included in the backup. I think it's a fair question. It always makes me uncomfortable when we have an rca to negotiate and execute a contract that's not actually been provided to the public. Can you comment on that?

>> We can provide that. I don't know why it wasn't included in the backup, but we can provide that.

>> Thank you. I think that would be helpful if it could be made available.

>> Sure.

>> Mayor Leffingwell: Those in favor say aye. Opposed no. Passes on a vote of 7-0. Thank you. Takes us to item number 21. Public hearing has been closed. So this is the item that has to do with the visibility. And if I could, could I ask, since it's been so long, I actually haven't been to a council meeting, I figured out, in six weeks. We get the staff to give us a thumbnail of where we are as of after the first reading. And I really mean a thumbnail.

[05:33:08]

>> My name is dan McNabb, building manager for building inspections and the building official.

>> Mayor Leffingwell: Your mic is on but we're really not hearing you.

>> Yes, sir, dan McNabb. Deputy official, manager. I understand the question or comment where we are after the first reading. My understanding is that we went to the second reading on

-- actually, I can't remember exactly what the date was

-- but the second reading consisted of requirements that were pass aid long to staff to go back and take a look at several components of the ordinance that we had presented originally and those components consisted of coming up with a or looking at the possibility of including a waiver process. We did that. We accomplished that. It came back with the recommendations from staff to council for the waiver to include 2% pre-document lot slope, not including switchbacks. All lots would have to comply with developed after, as far as exterior visibility route, we basically try to separate

-- or when we presented it  
-- into three different components. One was an exterior, visible route, which, at that time, when we first presented it, was the date for that requirement would have been January 1, 2016. On the second reading, we had revised that, which was revised to January 1, 2015. The exterior visible route has been -- which is the route at which you start from the outside and maneuver or find your way up to a point in the home which would either be in the garage, the front door, alley, those entrances or those points of entrance into the home, and that was the first component. The second component of which was the interior visible route which you circulated through the structure and access the different -- when you were visiting, accessed the different components of the structure including be able to eat a meal with whoever you were visiting or go to the -- or use the rest room facilities. Back in 2008, we came to council and revised the 2006 international residential code which had been adopted at that time to include two components. One, we came forth with an attempt at the direction of council in an attempt to take a look at all three of these components. So a third component, may go back just a little bit. The third component would be accessing the rest room in the house, which we did. Then I'm going to jump back to where we were in 2008. We did come back to council and we did, at that time, council did approve the adoption of the amendment to the 2006 international residential code, and that was in 2008. And since 2008, since the expected date of that particular ordinance, we -- homes which had been built which had a first-floor bathroom, were required to have a 30-inch opening door. So that's been in place since 2008. So inasmuch as we came back with the 2012 international residential code along with the rest of the codes that we brought to council and were presented to council in May of 2013, which led us forward to December -- that was the first reading for this particular ordinance along with the rest of the codes -- which led us to the December 12th which was the date that we came back for the second reading which included the three components I mentioned. So that's where we are. There have been a lot of questions about waivers at the lot slope, different components, including other waivers, including square footages. At this point in time, what we present as far as what's difference in the ordinances, based on the second reading and council's desire, is to have removed the square footage as a waiver component. That kind of takes us to where we are today in general. General.

[05:38:20]

>> Mayor Leffingwell: Okay. So we're up for third reading today. If there are any significant amendments, I guess it's going to depend on the nature of the amendment whether we would be able to pass this ordinance and just incorporate that or whether there would be a redraft, but, at the appropriate time, I'm going to propose that we offer the option be in lieu, specific to the ramp issue, that a homebuilder would be able to pay into the fund. The money in the fund would be used to retrofit existing houses or to purchase mobile ramps, the aluminum ramps you can carry out and basically put anywhere you go. That would enhance the visibility issue. Just playing around with numbers, if only 500 homes

-- we anticipate we'll build 2,000 homes next year and on an ongoing basis. Last year we built 2,400. But if only 500 opt for the fee in lieu, that would generate a fund the first year of \$100,000 which would

buy a lot of mobile ramps and provide for a lot of retrofit ramps where they're actually needed right now. So that's what I'm going to propose. Is that something that could be done and incorporated into the ordinance or are you going to need to redraft for something like that?

>> We can do whatever it is that we're directed to do.

>> That's a good answer. I like that.

>> I believe we had a draft, at one point, that had language in it

-- and I don't know that I could put my hands on it right now

-- that had language in it that was similar to what it is that you're

-- what we just described.

[05:40:29]

>> So let me ask you another question.

>> Yes, sir.

>> This occurred to me

-- what we're talking about is new homes. So there are a lot of instances, especially in central austin, in the area where I live, where homes are being razed or nearly razed and new homes built on the same lots, tear-downs, in other words. Would this ordinance as it is now apply to tear-downs and new construction on an existing lot?

>> Yes, sir, if you were to move the structure to where a new permit would be required and would not be considered a remodel, theoretically

-- because this ordinance regulates new construction and remodel, this particular ordinance is applicable only to new permits, so, yes, it would, I think, based on the scope of your question.

>> So if the lot slope were greater than 10%, it would be eligible for exemption to the requirement for a ramp?

>> Yes, sir.

>> Or if switchbacks were required, they would be eligible?

>> Yes, sir.

>> And then hopefully they would either also have the option of paying a fee in lieu.

>> Well, the way the ordinance is drafted currently, it looks at a lot in a pre-development scope, and that is where the 10% comes in to play. So, theoretically, if that lot were developed and they removed the structure, in my mind, it would be applicable exactly the same way in that you would look at the slope of that lot and, as that lot existed, provide a topo or a survey showing it. It would be great if we were living in a world where somebody could come in and say, this lot doesn't meet, but they would have to identify that with a , a survey.

[05:42:40]

>> Mayor Leffingwell: The reason I'm talking about these questions is, again, we're talking about a huge cost. At the last time we considered this, consensus accepted number was \$2,000 a house. At this time when we're very concerned about the affordable housing and increased the cost in houses that are already expensive. I have a lot of concern about that but I also have concern about the needs of folks to

be able to

-- the desire to have a visible house. I think this would provide a good compromise, get it started down the road and, potentially, be even more effective in helping people that need help by providing a fund where they could have access for mobile ramps, put in your car, take to wherever you're going and, also, to build ramps for people who already have houses that need to have those ramps. So council member morrison.

>> Morrison: Thank you, mayor. I do want to say that, in terms of your comment, that you noted that it was a huge cost and that it was a consensus, accepted cost. I don't believe that the \$2,000 figure we heard was a consensus accepted cost. There were people who had disputed that and I guess I do want to make comments, but to get the conversation started, I would like to make a motion that we approve the ordinance and back up on third reading.

>> Tovo: Seconded.

>> Mayor Leffingwell: Motioned by council member morrison, second bid council member tovo.

>> Morrison: And if I could comment further, especially about the affordability issue, I learned something yesterday, speaking with some folks, I got an email, and I see they're here and jennifer sent me an email, and it was real informative to me and puts the discussion into a much larger context. Jennifer, I wonder if you could come up and speak to this issue because, from what I understand, when the issue of accessibility CAME UP IN THE '90s, IN 1998, We started -- we imposed a new requirement that all city-funded housing, the affordable housing be visitable as sort of a pilot program to see if it was, in fact, feasible and would impact cost much. I wondered if you could just give us a thumbnail sketch.

[05:45:24]

>> Well, yes, ma'am. You're absolutely correct. We passed the original visibility ordinance in 199 #, 1998, and the intent was to use it as a pilot project to eventually make it available in every single family home. And in your own city-funded program, you found, in neighborhood housing programs, that the cost is around \$250 to \$300 per home. For affordable housing builders who typically have the less desirable lots to build on so they have more challenges to meet and less space. So this whole idea of it being expensive for private developers I think is really a misnomer, and we haven't found it to be \$2,000 per home. In your own city program, I would encourage everyone to look at that and really take heart because it was meant as a pilot project, like you said, and we found, through 15 years of work, that that hasn't been the case. And they've only given ten waivers in the entire existence of the program. So I think that speaks to the pragmatism put in place that meets the issue so it meets the affordability demands and accessibility which is what visibility is. So I think we've done our due diligence. We've sacrificed certain creature comforts to get certain accessibility in single-family homes because we saw there was a need for a truly affordable approach to it. Those two items are very important to members of adapt and the disability community because most of us can't afford a very expensive home.

>> Thank you, jennifer. I appreciate that. Basically, the situation we're in, we need to realize, in '98, we said, we'll see if this is doable. There have only been ten waivers in all that time so seems doable and feasible, so the next logical step is you have to move on because it's only impacted by only \$250 and not \$2,000.

[05:47:32]

>> Yes, and I think the problem with the retrofit is, once you do retrofit, the cost goes up sometimes ten times than doing it in new construction, and that's a figure found throughout all accessibility improvements, not just housing, but in construction of public buildings or businesses or things like that. Any retrofit is going to be more expensive than doing it during new construction.

>> Right. Thank you for that. And, also, I wanted to apologize to the folks from adapt because you all have been down here several times for this. We weren't able to finish things up last time in part because we didn't have all the parties here, although you all were here. But thank you for coming down once again, and I do hope that we're able to finish it up to date so we don't have to ask you all.

>> Yes, ma'am, I hope so.

>> And the good news is, it's still daylight out, so the transportation is not going to be such a problem. Mr. McNabb, I wanted to ask you a question. In talking about the 10% slope, you mentioned that that was post-development, the numbers we thought. Is that correct?

>> The ordinance is pre-development.

>> Morrison: Okay, the ordinance is pre-development.

>> Right.

>> Morrison: You provided a slide for us.

>> Yes.

>> Morrison: The ordinance is pre-development. The slide topography in austin

-- I don't know if you have a copy of it you could put up.

>> I have it

--

>> Morrison: It's this one, the bar graph.

>> It's slide number

-- excuse me. I believe it's number 4, 5? Excuse me.

>> We've got it. This shows you all did a sampling of how many lots?

>> We did a sampling of 110 lots that were under construction, and the sampling included the topo that was after the permit had been issued, which was after the lot was cut. So it doesn't

-- it's not showing the requirement

-- actually, it's the next lot, sorry.

[05:49:50]

>> Morrison: Well, no, it's the first one you

-- that one.

>> So the sampling that we did was # 10 properties, and the sampling included the topos of construction that were under construction, so it's not exactly specific to the language that was in the ordinance. And the language from the ordinance basically was taken from the current visibility standards so just kind of like as a refresher in my mind, and that language, the slopes of these properties would show that, after the lot had been developed, been cut down and to accomplish

-- and this is not lots that include visible structures that are being built, this is just permitted homes in 2012

-- or, excuse me

-- in 2013 that we looked at, at that time. So it's not showing, it's not presenting or adequately providing the information that is needed to make that determination.

>> But to be clear, what you found with your sample is that if you have 6 plus 3 that 9% of the lots that you sampled would have qualified for the waiver as the ordinance is written right now.

>> That's right.

>> And because

-- at least. And the ordinance is written as pre-development as opposed to post-development and, presumably, when you prepare the lot for development, you level it off more than you make more slope.

>> Right.

>> Morrison: So it's fair to assume that, in fact, the number of lots that would qualify for a waiver is greater than 9%.

>> That's correct. When we were in the process of developing the ordinance, we were asked

-- we met with hba and other stakeholders and we came to the use of 10% because it exists in the current visibility requirements, and we found, as Jennifer had mentioned, that we'd only had ten requests for waivers out of 7,000

-- well, 6,000 and I can't remember the exact number, but it was 6,800-and-something lots that had been developed under the visibility requirements since the year 2000 to current. And based on that criteria and the fact that we only had ten waivers, we thought it was a fair example of a percentage to use and to capture those lots that had severe slopes. Could not comply or be cut down.

[05:52:40]

>> Great. I appreciate that and all the work you've done on that.

>> Yes, ma'am.

>> Mayor Leffingwell: Council member smell been.

>> Spelman: Dan, the visibility ordinance in front of us now is largely taken from the visibility ordinance we have in place for smart housing right now?

>> As it turns out, it's developed into that, yes, sir.

>> Spelman: Okay. And, in particular, the

-- well, we have two waivers. I probably have to distinguish between the two of them. But you don't need a no-step entrance if your slope is greater than 10% after it's been prepared.

>> Pre--

>> Spelman: Pre-separation.

>> Yes.

>> Spelman: Then preparation having an effect on the net slope from back to front. You're basically leveling off the center and putting a house on top of it?

>> You could do front to back, too.

>> Spelman: I think the primary effective preparation is to level out the center area where you put the

house on?

>> Yes.

>> Spelman: Maybe it will be an effect on a few lots, but probably the pre- and post- will be the same?

>> I'm not sure I understood that.

>> Spelman: What's the right way to describe the difference between pre- and post- construction?

>> In pre-construction, you would have a lot sitting in raw form. If you were developing that lot, you would get a topo of that lot, somebody would provide you that requirement.

>> Right.

>> Spelman: Right.

>> If you met the component 10%, you would provide that information up front in the review process, that would be a waiver.

[05:54:40]

>> Spelman: I was suggesting the difference between pre and post construction would not be that large. If we had 10% pre-construction, post-construction wouldn't be far from 9%?

>> I want to answer the question as best I can. I think you would have an opportunity to

-- and every developer has an opportunity to take the lot which was mentioned a while ago and level

that lot out. I think you mentioned that when we first started. So you would actually have an

opportunity to make that lot compliant just in the development of that lot, especially if you understood

that you had to meet the requirements of any ordinance, regardless of what it is. I mean, we have

ordinances you have to meet requirements on for one or two-family developments now that people

have to plan for. So this is a planning

-- you certainly would have to plan for this, as you have to plan for any development. But you would

have an opportunity to take that lot down. So there would be less, in my mind, that

-- first off, you have the 10%. So under 9%, you're going to have to comply, the way it's currently

written. So you take that lot and you develop that lot in such a way and put a home on that lot, regards

of what issues you had to deal be that would best fit the lot and take the lot down in order to comply

with the requirements.

>> Spelman: So you look at the lot in advance of doing any construction work.

>> Yes, sir.

>> Spelman: If the pre-construction lot has a slope of 10% or greater, a no-step entrance would not be required by the ordinance as currently written.

>> Actually, you wouldn't have to meet any requirements of no-step entry.

[05:56:43]

>> Spelman: Yes, sir. So a no-step entrance would not be required if you have a 10% pre-construction lot. That strikes me as perfectly reasonable. If you have an #% pre-construction lot, I can

-- an 8% preconstruction lot, I can imagine circumstances where you can level it out to put in a no-step

entrance that would be easy. I can imagine some lots, if you're building in west austin over limestone

where the soil is about a quarter inch thick, eth , it's going to take dynamite to appreciably change the

slope and it will be expensive.

>> They do that now.

>> Spelman: I know.

>> Not for visibility, but just to be able to develop on that lot.

>> Spelman: I understand, but we're talking about the marginal increase in cost associated with having to develop a lot for visibility purposes and, in many cases, it's going to be so marginal that we don't have to worry about it. 250 bucks, even less in some cases. But I'm imagining there are some cases, particularly if you're building on limestone and you have a lot closing in on 10% but isn't there yet, could be substantial costs. I'm trying to suggest there are some cases where we need to offer the opportunity for a waiver even if the pre-development slope is not greater than 10%. That make sense?

>> Yes, sir.

>> Spelman: Okay. Talked to a smart housing developer, one of the guys that asked for one of the waivers, and his argument was, our current waiver policy

-- at the time, at least, he asked for a waive mr. The smart housing world and I believe he was one of the first people to ask for a waiver

-- was slow and unpredictable. Took a long time before the waiver was granted and he could start constructing the house. It seems to me, given we're not quite sure what our developers are going to be getting themselves into, won't be choosing houses

-- they will be trying to develop lots that will not be easily visible, that they will be looking for more waivers than the ten waivers out of the 7,000 that we have been looking for.

[05:59:15]

>> Yes, sir.

>> Spelman: So we'll need a better sense for what the waiver policy will look like and it seems to me that, if it is fast or if it is predictable, obviously it will be best if it were both fast and predictable, but it seems to me, if it's either predictable or fast, the developer could submit a waiver request and get a sense for where they stand concerning a particular lot and not spend too much time and money worrying about a lot that they're not going to build on after all. Can you give me information as to how predictable or quick the current waiver process is for smart housing?

>> For smart housing as far as the waiver process, they have only processed ten of them.

>> Spelman: I understand.

>> So over a 14-year period of time. I can't speak exactly to that, but I can tell you what it would look like under the current requirements if that would be sufficient.

>> Spelman: That would be a good start. Presumably if you get a waiver for not smart housing under the ordinance you're talking about, you would be using the same waiver procedure.

>> No, sir. This would be for bdrb and the building official, whoever that might be, would have the opportunity to provide the waiver under the current requirements of the ordinance. So it would be a matter of

-- what that means is

-- you know, people are always concerned about being expedient with moving through the building review process and the permitting process.

>> Spelman: Pardon me for interrupting. I want to distinguish between expedient and expeditious. We w.

>> I understand. In that process, if the plans are complete

-- and this applies to any project, no matter whether one, two-family developments or commercial

-- it moves through the process. At that time, you submit a request not to have to comply based on the requirements of the ordinance.

[06:01:27]

>> Spelman: Okay.

>> That's reviewed, approved and you move through the process. It's done at the point of application.

And that's done under the provisions, you know, by staff, you know, with the authority of the building official. And that's done immediately. It's done through the process. The same process we currently have for moving through the plan and review process of one and two-family dwellings.

>> Spelman: Say we're building a single-family house, at what point in the process do I submit that request?

>> At the time of application.

>> Spelman: Application for building permit?

>> Absolutely, yes, sir.

>> Spelman: And how long does it take for us

-- how long would it take for us to process that request?

>> Well, the application would be processed the day it was submitted, and it would be approved

-- at the time it is approved, around I'm not sure exactly where we are theoretically, but I think it's like a 7-day process. I would ask greg guernsey if he's here to speak to that, but I believe it's a 7-day process.

So in seven days you would find out whether you're approved. If you're a volume builder, there's a program for a volume builder which actually is the priority to those houses simply because the authority is that you have some of the same floor plans being submitted through the process.

>> Spelman: So if I'm doing a one-off building in a particular lot, I can expect to get my waiver rejected or approved within seven days?

>> I would say that's the goal.

>> Spelman: And if I'm a volume builder, less?

>> That's the goal, yes.

>> Spelman: How often do we meet the goal?

>> I don't have the numbers in front of me.

>> Spelman: I see mr. Guernsey in front of you. He might be able to shed light on that.

[06:03:31]

>> In volume builder program, changed a little bit this past year because we added structural elements, meet certain requirements so people's hazard insurance didn't go up. But generally we are meeting the goals of the time, the seven days. Those are usually dealing with individual lots that may be a little bit more difficult for us to review, so the seven days is probably a more reasonable time than the volume

builder lots. Usually, when the volume builder comes in, they're taking down several lots at a time. The subdivision, when it's created, the inspector would have to make that call or might have to verify that, could look at several lots at the same time because they're all coming in at the same place. On an individual lot basis as they're coming in, that's where it gets more difficult, because those are going to be scatter lots throughout the city. There's mentioned earlier about a remodel. Two of the exterior walls were basically touched. They were altered and it's no longer a remodel and it's new construction. Those could be just about anywhere in the city.

>> Spelman: How long is it usually taking us to process application for building permits?

>> For volume builders, we're seeing close to two days. The challenge for staff the way the ordinance is written speaks to calendar days. So it causes some angst on weekends or when there's a holiday.

>> Spelman: Right.

>> So we're looking at revising it to be more in the line of business days than calendar days. When we look at our peer cities around Texas, it does take longer than two days to review

-- you know, complete the bidding plans for

-- building plans for new construction.

>> Spelman: The average for peer cities is two days?

>> No, I'm saying in most of the cities we have been contacting, we have been asking questions about expedited process for various permits. Usually takes them more than two days to review building plans for the structure and zoning compliance.

[06:05:38]

>> Spelman: It takes us seven

-- or seven calendar days?

>> Seven calendar days, but I'm talking about, like, the volume-builder program, seven days is probably easier for us to meet the challenge except when you throw in the weekends.

>> Spelman: So I'm Lamar builder, I submit, you can turn it around in seven days some.

>> Generally that's true.

>> Spelman: I submit five of those 100 lots need waivers for a no-step entrance, you can tell me yes or no in seven days?

>> Yes, I think we could. Remember, this doesn't go into effect right away and we would probably sit down with the stakeholders and try to work through that process. When we're bringing down many lots and new construction for new subdivisions, we'll have slope information ahead of time. So some of that can be factored in. I think in looking at potential subdivisions where that may occur, there might have a higher incidences of asking for exceptions than other neighborhoods. Certainly if we're looking at an east Austin versus a west Austin subdivision, we might know of one in west Austin that question might come up where there might be more exceptions because the topography in west is different than east.

>> The topography and substructure so you might be talking dynamite.

>> That may be true.

>> Spelman: If I have a lot that's 12% slope, I submit my request citing the fact I have 12% slope in the lot and that would be granted under the current proposed ordinance without much storm and drama, just a 12% slope. Said we're going to grant you 10% slope when we're done. Instead if I'm asking for a

waiver for a lot which has an 8% slope, help me understand under what circumstances you would grant that waiver and under what circumstances you would deny it.

[06:07:39]

>> I think that goes back to if this ordinance is approved, we would have to sit down with the stakeholders and work through that process. It's difficult for me, off the cuff, to tell you what a process would be without probably first talking to mistake holders and looking at what that criteria would be. If there's a waiver that came in and garage entryway, that would certainly play a part of this discussion, if their suggestion is that they couldn't access through the garage because that is an alternative. Or simply a different entry coming in off the side which is directly off the front. So there may be other ways to get there rather than simply just grant the waiver without looking at those alternative ways to enter the structure.

>> Mayor Leffingwell: Councilor, you anticipate a few more questions, more time?

>> Spelman: I think we'll need more time.

>> Mayor Leffingwell: Without objection, let's put this item on table and go to citizens communications. First speaker is brian McGiverin. Is he here? Come on up. You have three minutes.

>> Mayor, I have a topic. It just wasn't announced. My name is brian McGiverin, an attorney with the texas civil rights project. I'm here because a group of individuals filed a complaint with the neighborhood housing and community development office, the city of austin. It's a complaint regarding the city of austin's fair housing policies and a complaint which that office will be required to answer under federal regulation. It begins by saying, for deca the city of austin has fallen below its duty on segregation. When you concentrate poverty, you helper peach wait poverty which hurts the entire city and puts in jeopardy tens of millions of dollars of federal funding from the department of housing and urban development. The affirmative act tries to break down segregation. In the last 50 years the city's never made more than token efforts to increase affordable housing in high opportunity areas, housing affordable to low-income families in the city, one out of three. More critically the city is championing policies which are destroying some of the fair housing tunlts in the city. Take east riverside. The city may as well be evicting the residents of east riverside itself because when it targeted the area for economic development but failed to make provision for maintaining affordable housing in the area, it made displacement and inevitablability. As I said, we filed quite a lengthy complaint. Federal regulations will require a response within 15 business days. I look forward to that response and, in a way, I hope that the response will prove us wrong. But I doubt that it will. Frankly, I'm afraid they're not going to have much of anything to say. Thank you.

[06:11:18]

>> Mayor Leffingwell: City attorney? This fellow has not cited anything in particular about the subject of his talk with us today but I'd like to ask him a question. Under what circumstances can I do that?

>> Yes, we can't have a discussion but we are allowed under the rules to ask him a factual question and he can give you back a factual response.

>> Spelman: I understand we can't discuss. I'm happy to hear we can ask you questions. What are you

asking from the city that we do in response to your complaint?

>> Well, there are a number of possibilities. In fact, the complaint includes 11 suggestions that are hardly novel. They have been in front of the city for quite some time. Examples would include, for instance, the city's fair housing ordinance. There are dozens of places across the country that include source of income as a prohibited status for discrimination. That makes sense because section 8 is supposed to provide an opportunity for low-income families to live in higher-opportunity, more expensive areas. In the city of Austin, documented in research cited in the complaint, the overwhelming majority of section 8 users can't live in higher opportunity areas because the apartment complexes west of I-35 will not accept tenants who pay rent for them. It wouldn't cost the city a dime to amend the fair housing ordinance as other places have done. Other example. Create homestead preservation districts in the city. The council received a report about this a few weeks ago discussing the new areas that are eligible under that new statute. That's something that should be done as quickly as is reasonably possible. And as I said, there are 11 different suggestions in the complaint.

[06:13:20]

>> Spelman: I don't think we need to see the whole complaint, but I think several of us would like a chance to take a look at the 11 requests that you've made. Again, I would leave it to the nhcd staff to make a formal response but I think it would be helpful for us to have a sense of what you think should be done. If you could send it to us, I would like to see it.

>> I would be happy to send it to each of you.

>> Thank you.

>> Zoila Vega.

>> I'm here. I respectfully ask that you clarify whether or not working group meetings of advisory boards are public meetings. My understanding was that working groups were created to allow boards to work more efficiently on some issues that require discussion and that interested members of the public could attend and even participate in the meetings. I also understood that these meetings are exempted from the open meetings so there's no required to post notice of the other meetings. Several people explained to me while working group meetings were open to the public because of city's policy on transparency. Last November I asked staff when the working group for the Austin Herbal Forest Plan was going to meet so I could attend to working group meeting. I didn't want to listen to the discussion not to participate. They replied to my email. I was told by staff they asked and said a working group from an advisory board is not required to comply with the open meetings act but it does not have to allow members of the public to attend. Working group on Forest Staff wouldn't let me know the location of the next two working group meetings. It's important to resolve the issue because there is an action item in the Austin Urban Forest Plan that the departmental plans may be reviewed in public meetings. This was a recommendation from the Environmental Board because the plan did not act on most of the comments from the public because the chair of the working group of Forest Staff thought the comments were tactical and strategic. They forwarded to the departments for consideration. My concern is that the Forest Board discussed in their October meeting that since there are going to be 14 departmental plans, there wouldn't be much time for review to the operational plans reason reviewed in working group meetings. So if the Forest Staff decided the working group meets are not public, that would live the

public out of the review. The only way the public can comment on the plans would be in the regular board meetings and that's not acceptable. This way of operating in secrecy excluding most everyone has occurred throughout the development of the urban forest plan. Ironically, forest management plans are supposed to be the tools that invites the community and their participation and support. For years, the public and forest rimembers have asked other members to allow the public to participate but they were not allowed in the working group meetings for the plan. Even the remaining members of the forest riboard were not invited to the working group meetings. There was supposed to be an approach to allow all members to participate but after a few meetings, they did not.

[06:16:59]

>> Jose quintero.

>> Cole: I'd like to ask a question.

>> Mayor Leffingwell: Mayor pro tem.

>> Cole: Can you clarify the rules for open working groups for ms. Vega?

>> I believe john steiner said for the working groups if they're not pursuant to the open meetings act then they aren't public, necessarily, and they don't have to comply with all the same requirements that, for instance, city council meetings do. Is that your understanding?

>> Correct.

>> Cole: Thank you.

>> Thank you.

>> Mayor Leffingwell: Jose quintero. Okay. We'll go to pat smith. Is pat smith here? The indirect connection plumbing requirement for childcare centers.

>> My name is debby parker. We operate out of two buildings, an infant toddler center and a pre-k center. I'm here to voice my concern about the city of austin requiring air gas to be installed underneath the kitchen sinks and any food prep sinks. For your reference, I have a picture of an ai exactly what it is. There is a daily challenge we have to ensure what's draining out of the sink does not overflow in the funnel underneath the sink. Moisture is always present under the cabinet and it creates a breeding ground for mildew. Childcare centers that operate out of older buildings are likely to have traditional kitchens with cabinets rather than the commercial stainless steel, nonporous kitchens. In the unlikely event sewage backs up into the kitchen pipes, an airgap causes waste water to flow in the kitchen cabinets, on the floor and surrounding area. The health issue is immediate and the center might have to close in this event. The amount of time and money involved in order to get -- to tear out the cabinet, to clean, to sanitize the area is costly to our enrolled families and the business owner. Without an airgap, the waste water is contained in a stainless steel sink, in the sink basins. The contained area can be cleaned, sanitized, disinfected and we can continue our manner of operation. My last comment is this, I have two kitchens, one in each building. I prepare food and do all the dishes and everything in one building and it's carried next door. Yet when I topped the second center, I was still required to put in the airgap underneath and was told it was just in case we would ever cook in that kitchen. In addition to this, I have to pay for the foot permit, which is \$310 and had to put in a hand-washing sink. All this cost, I just wanted to go on record, that it creates a health issue. But we want to ask today here for the city to be helpful to small businesses and look at childcare centers as an individual

entity rather than restaurant or coffee shop. Please create a category that you can look at each one of us individually and see what we do.

[06:20:47]

>> Mayor Leffingwell: First, I'm informed that you are not pat smith.

>> I'm not. I'm debbra parker.

>> Mayor Leffingwell: Pat smith will be the next speaker. Usually, it's good to mention you're not pat smith and you would like to smith and it's okay. But just to walk up and impersonate pat smith is really not a good idea.

>> I understand. I apologize.

>> Mayor Leffingwell: Council member morrison.

>> Morrison: A question, just to be clear, you're suggesting that this airgap contraption, that the health department is saying it's part of the he'll code you need, that you see the consequences are creating another health issue. Okay. And I miff other questions I'm going to ask but I have a feeling ms. Smith they address something similar.

>> Exactly.

>> Morrison: Maybe I'll wait.

>> Mayor Leffingwell: So now we get pat smith. This is the real pat smith.

>> Ms. Frazier is not able to to be here today. She owns another childcare center in southwest austin.

>> You're obviously not skilled in the political arena, so I apologize

--

>> Mayor Leffingwell: Well, you are now.

>> We actually thought we could give time for comment for a third director that has the same concerns we have. I'm pat smith, executive district of little dude learning centers, a nonprofit. We serve 150 children, the large majority qualify for childcare subsidies, there are many issues with the airgap direct connections when installed in a wooden cabinet. At little dudes 3, no food prepared, but the health department written citations to compel us to install an airgap connection. The hot meals served to the children at little dudes number one and transported to little dudes number three. There is no stove at little dudes number 3, eliminating possibility of meals prepared there. Several years ago we repaired the kitchen cabinets. The idea of a situation causing destruction, as you can see in the photo, is something for no logical reason has been something that I could not ignore. I have spent well over a year and countless hours trying to resolve the issue and now hired an attorney to represent me at trial. Money desperately needed for a new roof is going for legal council when the city did not accept waiver written by a pro-bono waiver at baker botts. Health department suggested we serve juice and pizza and would not have to have the connection. I asked if he was aware of childhood obesity and the importance of vegetables. One inspector told me, in his opinion, the indirect connection causes more health issues than it prevents. Other city regulations required of childcare centers should be revisited. One example, food handlers permits. Even though childcare have standards we must adhere to, the city additionally requires our teachers and staff to have food handlers permits. The regulation is so rigid, it requires that every person at the center who does not serve food having notarize affidavit that effect. Even our bookkeeper who works eight hours a month. If the city were so concerned all people who serve food

have permits, they would require children to have permits because it is not only best practice, it is also required by the department of agriculture for the young children to serve themselves, starting at 12 months if possible, with assistance. Childcare provides an important service to our children, families and community. The ever increasing regulation eventually takes a toll. At the end of 2013, three childcare centers in south austin closed. Two had been in operation over 20 years, one was in a church. In imagine austin, the 30-year vision for the community, the community identified and the city acknowledged a need to make austin a more family-friendly and business-friendly community. Childcare falls under both categories and we're anxious for the city to align their policies with a vision in addressing these issues

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[06:25:27]

>> Mayor Leffingwell: That was your time. Your time has expired. Council member morrison.

>> Morrison: Ms. Smith, we worked together quite a bit when we had fire codes coming into play in terms of their applicability to childcare centers and then the cost and all offthat, really trying to minimize the impact to you all. I'm very interested and I'm sure a lot of folks would be interested in make sure we're doing the right thing by way of childcare centers. Is anyone on staff necessarily that can answer questions right now?

>> My name is robert wright. Supervisor with the health department.

>> Morrison: The issue has been raised that actually this requirement is actually creating a health issue also. Can you speak to that?

>> Well, we inspect and permit about 3,500 establishments, food establishments. Personally, this is the first time I've heard of this being an issue. We require it across the board. I was unfamiliar with this being a by-product of the requirement until ms. Smith brought it up.

>> Morrison: Sounds like it's a bigger issue and I wondered if staff could get back with us to see, since they have been conversing in conversation with our staff about it, and it sounds like going to court and all that kind of stuff, that there might be a way, specifically on this issue of the airgap, to let us know what's going on and see if there is a way to work with that but also, really, two other issues were brought up, one that the food handler permit requirement might need some adjustment. We certainly don't want to have to get into requiring up a children to have the food permit. Then, secondly, if they could get with stakeholders to see other ways that they think maybe they should be treated in a different category, other things that are impacting this. That would be very helpful. Thank you, sir.

[06:28:04]

>> One more question for you, I think. Council member tovo.

>> Tovo: I have a question for you and I see members of water utility here, probably have questions for them as well. My staff has worked with pat smith on the issue of indirect connection probably last spring and have had a lot of contact with mr. Lopez who you supervisor, I believe, is that right?

>> I'm sorry, I'm having trouble hearing you.

>> Tovo: Mr. Lopez.

>> Yes.

>> Tovo: As I understand the situation, the requirement is a city  
-- well, what we understood last spring is that it is a state regulation, and I'm talking now about the indirect plumbing requirement.

>> Right.

>> Tovo: I have, I think our more recent conversations with your staff this week suggest that, while it is a state regulation, there is also a state waiver process. However, the city does not have a waiver process. So I would like to get clarity on that because we spent quite a bit of time last spring trying to get to the bottom of it to see if there were any options for little dudes and other childcare centers facing this and we were told, no, there is nothing we can do, it's a state regulation, and I think we all want to support making sure we as a city are upholding safety and health standards for all members of the community, especially for children. Anyway, could you please respond to that? Is it a state requirement?

>> Yes, we enforce the state code and then it requires an indirect connection for wash and culinary sinks unless allowed by local code, okay. So we have a local code that prohibits direct connections on these kinds of sinks. My understanding is while the state code has a variance provision, an option, the city code, my understanding, does not. But that's not my purview, it's the plumbing code and the plumbing folks might better speak to that.

[06:30:06]

>> Tovo: That last piece was not immediately apparent in our conversations last spring about the potential that the city could consider instituting a waiver process. But I would like to add to the list of areas for potential exploration. I would like to get some feedback from our plumbing folks on whether they think that would be a good idea. Is that something maybe that our water utility might be prepared to speak to today? I'll invite them to offer some information if they'd like to, if it follow up the report back with council member morrison, that's fine.

>> Dillingham building inspector, building official. This requirement is in the plumbing code and the reason for the requirement, I'm not sure if the reasoning has been expressed, but the whole idea is that you have a sink, you're preparing food, you thaw out food in that sink. In the meantime, that sink backs up and you have waste in contact with the food. Then somebody takes the food out or say the sink unstops or what have you, and nobody knows the food was subjected to the back bacteria. Then when they prepare the food, use the food, lettuce, what have you, and someone gets ill from it. So that is a requirement of the plumbing code. I would think that this particular issue, if it were to be discussed, we might want to discuss this that the mechanical, plumbing and solar board, on that level, and maybe get back

-- come back to council with a report.

>> Seems like it might be appropriate. I appreciate your additional words and I have other questions and I appreciate the staff who came to attend. I see we're running really behind. I'll cut my questions off and hope that we can continue to converse with the city manager about what information might be appropriate for the council to see.

[06:32:13]

>> Thank you. Edward sledge. Distracted driving.

>> Mayor, city council, members and citizens of austin. My name is edward sledge. I live in austin.

Distracted driving. Case in point. My wife and I were driving over here. We took 8th street, turned onto guadalupe going south. We noticed a car

-- there is some construction there. There was a car coming in back of us, normal speed, maybe even slower than normal, and it just

-- and the light was red, at least 100 feet before the car got to the intersection. It just waltzed right through the red light. I told my wife, well, there goes cell phone driving. The cell phone is doing the driving. She said, oh, maybe not. I said, let's see. I drove up. The guy had to stop 6th street. Drove up to the side of him and, sure enough, there was a cell phone. We said

-- he opened the window. We said, you ran a red light, sir. He looked at us, like, what? And his wife or his girlfriend was in the car with him. Think about that. That's what we do. And that's not against the law in this city. I'm sure you've all seen this or something like that on a daily basis. Please pardon some irony here. We

-- that is we, the world

-- think that if it's not against the law, it must be okay, and especially for me, since I'm an experienced driver and really good at multi-tasking

-- whatever that is

-- even if it makes it seven more times likely I miff a crash, I talk on my cell phone. Even if it's as dangerous as driving drunk, and it's legal to text and look at your ordinance, I have it in front of you, while stopped in traffic. So it's okay for me to hold up traffic while taking more time reacting to the green light, to not anticipate the situation when the light changes, maybe hit the car in front of me or a pedestrian, and the pedestrian might be on his cell phone, so we have to really look out for them. I mean, this distraction has gotten to the point of absurdity. If I'm a school bus driver, I cannot text or talk on a phone. But if I'm a parent taking my kids or some other kids to school, I can. If I'm in a school zone, I cannot talk on my phone. But if I'm anywhere else, I can. This may seem absurd, but it's true. That's the way the law is in this city. It means that we have to do something about it. The fact that electronic devices have created more and more distracted driving has been well documented and studied since the EARLY 2000s.

[06:35:32]

>> Mayor Leffingwell: Wrap it up, please.

>> We cannot make the world completely safe. Things happen that are completely beyond our control. We cannot make driving completely safe but we can darn sure make it safer.

>> Mayor Leffingwell: Okay. Thank you. Danielle wright, slaughter east development.

>> City council members, my name is dr. Danielle wright. I'm a home owner in a far south austin neighborhood located between i-35 south and brant road along southland east. We want to propose community developments and support thoughtful development along slaughter lane east particularly between i-35 south and brant road. This reflects a vibrant community who contribute to austin in a number of ways that achieve the city's primary growth objective. While the community can identify with imagine austin's plan, our community urgently cautions the approval of a third egress to narrowland

parkway which currently service as our community's primary entrance and exits under the guise of compact and connected reflect severely divergent of reality. Crossing on onion creek asks city council to respect us as tax paying voting austinnites who have turned a little development into a vibrant neighborhood. It reflects families, retirees, profits, including university faculty, doctors, nurses, k-12 educators, pastor, landscape architects, artists, techs and social entrepreneurs and emergency personnel. In fact, our community has a robust representation of apd, afd and county law enforcement. As you may apd officers are forced to live in neighboring towns in order to find strong community options. We at crossing and onion creek are proud to be an in-town option for those who ensure the city runs safely. We want the council to watch, and replicate and promote our neighborhood in a time when homeownership is critical to the health of a vibrant city and nation faces undue stress, we at crossing at onion creek advocate for more single family communities, development that nurture our values. Though the majority oof residents only recently learned of pending development at east slaughter lane and it's impact on our neighborhood. We have come together to present a united between ourselves, the stillwater development and you the city council we elected to represent us. We are aware of and remind the council that the developer has a continued neutral stance regarding his interest on the matter of a third egress. We a keenly aware of the pressure placed on the developer to add the third egress on to narrow glen by the city council, particularly representative chris riley and the mayor and the mayor. What we ask for is we wish to have you support

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[06:39:08]

>> Mayor Leffingwell: Please wrap up, ma'am. That was your time.

>> Thank you. We thank you for this time. I'll let you know at this time that the community also submitted a second round of petitions in addition to our own eight recommendations to how we can work with the city.

>> Mayor Leffingwell: Okay, thank you.

>> Thank you, mayor. John goldstone. Council member tovo.

>> Tovo: I wanted to let our speaker know, I know we've had several members of your community be in touch with my council office and it wants my understanding the city manager's office is working to coordinate a meeting. So I hope that will be a productive discussion.

>> Mayor Leffingwell: Affordable housing and land development.

>> Mayor, council members in attendance. I'm john goldstone, I'm a problem solver. I'm here to talk about affordable housing policy. Key words flexibility and unintended consequences. As the policy of declined standard of living in the u.S. Since 1974 and downtown policy. I ask you to consider ordinances that work against afolderrable housing when at a time you need more. If you want affordable housing, you must be flexible. Strict restrictions and set bacts while enhancing value for neighbors raises costs dramatically and drastically restricts an owner's ability to build a small community and stay in the property longer. Rising taxes for families out. The only way to keep the families here longer is to encourage whatever method of creating a new unit is necessary. As I have stated before in 2005, allowing a two-family apartment behind a single-family house allow a family to have two adult children living on the property but not in the house with parents. Reduced parking on in all alice and for all

additional units behind single family or duplex homes. If your goal is to increase the values of properties, then strengthen McMansion. If the goal is to build more mutants, then weaken McMansion and don't create historic or conservation districts for that matter, but don't lie and say McMansion did not and will not increase values. Studies in atlanta, georgia, in THE EARLY 2000s REGARDING Historic districts and increased values whichle follow enactment prove this to not be anecdotal. Keep in mind every time you add restrictions or deal with stealth dorms, you make it more expensive to add density, so don't be two-faced. If you want more affordable housing as a policy, act like it. Rollback McMansion and relaxed setbacks in parking requirements for secondary apartments allow multifamily secondary apartments and more unrelated people to reside in the same home. Also, turns out council member riley's focus on bicycles for transportation is an excellent alternative for minimum wage workers. Keep up the good work, council. Thank you.

[06:42:13]

>> Mayor Leffingwell: Ronny reeferseed, peace and freedom.

>> Yes, I'm ronny reeferseed, number nine, number nine. Thank you, corey, for your service. When corey ramsbury self sacrifice is blatantly exported by president, I wondered how many other men, women, babies, cultures and nations in our once proud nation may kill and destroy every single day earning hatred worldwide. Does anybody out there even know, when nixing tried to use our truly evil irs against a handful of its so-called enemies, the irs commissioner at the time said, no! Why not now? So this very day, our own so-called president is openly waging war on his own so-called enemies abusing his office with powers he doesn't even have. He's much, much worse than nixon, much, much worse than bush. When are we going to turn off the mind-numbing tv, get up and demand so-called president be in peace, convict

-- be impeached, removed from office. Which is more important? The super bowl? Life is short. Let us use our time to try to educate each other like cutting the fluoride from our water. Where are you people? I'm saddened by the tragic fact these chambers are not filled to the roof with angry people. Let's all use every chance we get to tell off these short-sided criminals and all other so-called elected officials. Many of more of your hard-working taxpayers can somehow manage to take off a lunch break, call in a sick day or whatever to help save our world while we still can! The fukushima meltdown proves we must now do whatever we can to make things right. Forgive me god for not doing more. We all have our limitations. We can all do more. Let's use our time better. Love is a gift of god we can use every day. It's sometimes hard but it's still off we have and need to drive us toward a better day. Tell everyone you know you love them with everything you can say or do as much as you can. Legalize freedom to love one another. Legalize freedom to live, everyone. Stop the killing. Love the living. Give of yourself to at least help make it happen, every day we have left. And I'm talking to all of you people up there. Every one of you. Thank you and pay attention to info wars. It's on every day, six days a week, 11:00 to 2:00 on weekdays and 4:00 to 6:00 on sundays. Lots of information. Okay. Thank you so very much.

[06:45:12]

>> Mayor Leffingwell: Thank you. Alan roddy. Lake austin task force.

>> Good afternoon, I'm alan roddy. I gave you a copy of a newspaper article from last week about the hayes county master list creating 40 burning sites in hayes county to increase local recreation and ecotourism. I believe by creating programs and utilizing local parkland, preserves and the colorado river that austin and travis county tend to be a major burning center similar to the birding area in austin, texas. Austin is a birding area. In 2009, austin became the largest city in the country and the first city in texas to be certified as a community habitat wildlife by the national wildlife federation. Federation. Using local resources like McKinney falls state park and other parks, the local bcp and national bcp ref funeral lands and using the colorado river as a nature trail, we can promote birding and wildlife activities for local recreation, ecotourism and natural sciences research. As you may already know, the bcp is the first multi-species refuge in the nation under the epa's section 10a. I think of the bcp as a 30-thousand acre research facility where scientists study our native birds, wildlife, vegetation and geology. A couple of months ago I suggest ised to the bcp coordinating committee they should submit a natural landmark application to the natural parks service. Landmark status would bring national rebgl anything to austin's leading role in land conservation and hard work for the bcp staff and volunteers and would be another way to market austin as a major birding and wildlife center. Austin could use the state's parks and texas wildlife trail web site to help promote our local birding sites. The texas and wildlife traveling trails program could be used to increase canoes and kayak travel on the colorado river. We already have great local orientations like the travis autobahn society and the conservancy and sierra club to provide classes to the citizens. Volunteers have been making austin a bitter place to live for decades. By combining waterways and land trails we can provide an area others cannot offer. We can become a destination for wildlife tourism. Over 400 species of birds live in central texas, living here for the same reason the humans choose to live here. Great person to build a home and raise a family on the colorado river. AS SAN ANTONIO HAS SeaWorld, Austin already has bird world. Austin could become the bird watching capital of the world.

[06:48:35]

>> Mayor Leffingwell: Thank you. That's all the speakers we have. So, council, out of consideration for those who have been waiting on item 21, I would cutting that we delay our executive session and take item 21 off the table. There's a motion on the table by council member morrison to approve third reading, seconded by council member tovo. And I believe council member spelman had the floor, but he is not here.

>> Mayor, I have some questions.

>> Mayor Leffingwell: Mayor pro tem.

>> Cole: We have staff present.

>> Mayor Leffingwell: If somebody could get the staff folks back out here, we're going to have a series of questions for them. The appropriate staff. Here they come.

>> Thank you. I have a few questions for you. Council member spelman and morrison have laid this out already. I want to make sure that I'm absolutely clear that I'm looking at section 5-1-133, the waiver of exterior accessible regulations and that those are the exceptions that would apply to the ordinance that we're currently considering.

>> No. That is not correct.

>> That is not correct.

>> The exceptions that would be applicable

-- you mean to the proposed ordinance to the visibility?

>> Cole: Yes.

>> No, ma'am.

>> Cole: Where are those waivers?

>> The waivers are in r-3271 on page 2 and lost 10% slope prior to development.

[06:50:50]

>> Cole: I see those within the ordinance, but it was my understanding that there was a separate section of additional waivers that would be applied.

>> Not in the proposed document.

>> Cole: So when we talk about looking at the waivers that have been granted to smart housing, the approximately ten within the last 14 years, we're talking about waivers under section 5-133, not under the section that is in the ordinance?

>> That's correct.

>> Cole: I need help understanding the relationship between the waivers that are in the or not and the waivers that we have been applying in smart housing if we're going to be making a decision that they are comparable.

>> I heard everything except for the last part.

>> Cole: That they are comparable.

>> Oh, they are comparable in that, if you look at the current

-- I had that out

-- in chapter 5, it does call out the 10%. It does utilize it. But that's the key factor is the 10%, as far as being a proposed waiver, and then the other process in this particular requirement is that you have to fill out an application and submit it and then wait for that particularly determining to come back which council member spelman was pointing out a while ago that by the current ordinance, would be approved in the form of application at the time of submittal for the permit. So it would be expedited in that respect. So as far as the components, one component is 10%, it does not include the 3,600 square foot because that was taken out in second reading and moved forward. That's the way I recall it.

>> Cole: Help me recall why he took that out. We took that out because we were no longer concerned, I believe, with the small lot size.

[06:52:58]

>> I believe that there was quite a bit of discussion about that particular issue and it was taken out because it would exempt lots, for instance, most lots in mueller would be exempted under that current requirement as it read.

>> Cole: So when we look at the current or not and the waiver

--

>> I need to correct that. There is a pud there that has separate language in it applicable to the miller. So

the lots in miller would not be affected by this ordinance. I need to clarify that. But other lots in the city that were under 3,600 square foot with that language would be exempted automatically.

>> Cole: Because I notice under the smart housing waiver position, there is an exemption for a lot that has an area of 3,960 square feet.

>> That's a corner lot.

>> Okay.

>> There's two different lots. One's a lot that has, I'm assuming, an alley in the front and then a corner lot, which you would need the larger area. That would meet the requirements of the corner lot. So, anyway, there's two different lots, one for a corner lot and one for a lot that abuts an alley or a front street.

>> So not having this lot-size waiver included within the ordinance means that we are covering a new but not making exception for a corner lot, is that correct?

>> The criteria was included for the miller development in general, with it in mind and included two different

-- there's three different criteria, I believe, that it has to meet. It has to be 3,600 square foot. Let's take that one because I'm not able to pull that information up right off the top of my thumb here. But there's three requirements. It would have to be more than 10% from the right of way up to the visible. That's two criteria. It's compounded. It would have to meet either one. We thought by utilizing the 10%, as I said before, we had met with stakeholders and we thought by utilizing the 10% pre-developed lot that we would capture the heart of that it is that this criteria was to utilize, was attempting to utilize. That's what the stakeholders and staff thought that's why we came forward after the first public hearing, which we did not include the 10 slope size. We believed that the language in the ordinance already had captured these requirements by utilizing the language that was already adopted in the international residential code that spelled out what a ramp was because a ramp, that language covers the criteria for a ramp and what a ramp can do and what it can't do, which is what we're talking about, with the exterior component. Then we got more complicated, in my mind, by including an additional criteria for a waiver process for a percentage because, if you can't accomplish the ramp, and you can't accomplish visibility. So that was already covered. So having said that, I was going back of how we got where we are today. But that particular criteria, I hope for your satisfaction and knowledge, that particular criteria was taken from this language and believe it covers and grasps the heart of what it is that this language in this criteria was attempting to cover, to include.

[06:57:15]

>> Cole: The wafer language in r-20.8, I believe, covers what was significant pursuant to the stakeholder discussions for a waiver in this visibility ordinance that's before us?

>> I believe that.

>> Cole: Okay. Thank you, mayor.

>> Yes, ma'am.

>> Mayor Leffingwell: Council member spelman, you were asking a series of questions. Would you like

--

>> Spelman: I want to follow up. Where I was going is where mayor pro tem cole was going as well. If I

have a subdivision or a lot, if it's got a slope prior to development of 10% or greater, I would put in a request at the time I request the b permit and within seven days or so I could reasonably expect to get a waiver from a no-step ordinance because my lot is steep.

>> That's correct.

[06:59:20]

>> Here's where we are.

>> Yes, sir.

>> As you probably discussed with the home builders yourself, the home builders association has made the case, not completely to my satisfaction or I suspect to other people's, but they have made the case, it's not an unrealistic case on its face, that a lot that has a slope considerably less than 10% would not be -- at least in in some cases, amenable to a no-step entrance. The argument they make is that the driveway would have to be too steep for the garage and the house itself to be on the same level, therefore

-- now, I'm not

-- I will need a model, I would need a lot more evidence to persuade me this is always going to be true or generally going to be true.

>> Yes, sir.

>> More important, a 4% slope which is what they were asking for a waiver automatically of a 4% slope or steeper, would exempt something like 32% of all single family developments, all single family lots. I don't think this council is prepared to give a blanket waiver of 32% of the lots. On the other hand, I am persuaded there are going to be some lots where the slope is not 10%, but where it just doesn't make any sense to require a no-step entrance. Seems to me that the best way for us to go about this, rather than trying to make sausage up here based on

-- at least my very limited knowledge of the construction world and the costs associated with ramps and no-step entrance in different circumstances, it makes more sense for us to pass that torch on to y'all to come up with a proposal for waiver provision which meets with your satisfaction and at least addresses the issues raised by the home builders association and have you come back, for example, for a briefing to us in the next 30 days saying here's what we're working out, here's what we think our waiver procedure is going to look like.

>> Yes, sir. I appreciate that. Very much. The problem that I have is I've seen the diagrams that you're referring to. I understand and know what it is that

-- that

-- I understand hba's concern. I understand that concern. I do not agree based on the circumstances, like you said, they have not proven with those types

-- with that document with the plan that is not

-- you cannot accomplish lowering that lot in certain places and maneuvering certain components of it to

-- to accomplish visitability. I do understand what you are saying. You are talking about a

-- a project possibly that's built over in

-- in west, which most of them happen to be built out southeast where you don't have limestone.

[07:02:07]

>> Right.

>> So it's really

-- you know, it could be

-- it certainly is something that we need to take a look at. So

-- so

-- so

-- possibly, you know, you could base on a cost and that's something that we could come back possibly. I don't know how that looks. We generally don't

-- we generally don't

-- on the air that we live in, I understand costs, I lived with it my whole life during my whole construction

-- 40 years of time that I have spent, so I understand the cost, but costs is generally not the greatest concern when you are looking at a requirement and I understand that

-- look, I know saying this is probably like

-- like, you know

-- so

-- it's not necessarily the

-- it's not the

-- the main component, it's certainly one component. And I

-- I say that and I go back to the area that

-- that I believe that by

-- by a planner or architect, with that structure and I'm

-- the picture that I got out of the structure that you were looking at was a lot that sloped from front to back. They already cut those lots down considerably in order to get

-- to accomplish other requirements, including height. Because

-- because the height is measured from the average of the existing grade so they already accomplished that. So I'm not so sure this is a major issue. I'm not convinced this is a major issue as far as being able to comply with the requirements of this ordinance.

>> In fact, because I was

-- because I was not convinced it was universally true for

-- for not 10%, but still sloping lots, that I

-- I feel extremely uncomfortable putting in a blanket waiver of any kind beyond a 10% waiver that has been in our code for quite a while. On the other hand, I do feel compelled to mention that

-- that smart housing is a choice on the developer

-- from the developer's point of view. If a developer believes they can meet the requirements with smart housing, they can apply for smart housing. If however on a particular lot they do not believe they can meet those requirements, for example, they have a

-- they have a slightly steep

-- sloped lot, but don't believe it would be economically practical for put in a no-step entrance, they

would not need to apply for smart housing. It seems to me the fact that we can't just support our smart

housing

-- import our smart housing requirements into and you are single family houses without losing something in the translation. It makes sense for us to consider coming up with a waiver procedure that would be applied to all single family developments, because if we didn't do that, then we would effectively

-- we could effectively increase dramatically the cost on at least a few of those developments. If we made them build a no-step entrance where it just doesn't make any sense. So it seems to me if you are willing to consider the possibility that on a lot by lot basis, it might make no sense or it might be economically impractical and that's something that we could discuss exactly what that means, then it would

-- from my point of view it would be a lot easier if you had a conversation with Harry Savio and his friends that if we tried to legislate something and made you adhere it with the vacuum of knowledge that I'm facing in the construction world

--

[07:05:31]

>> yes. If I could just ask, like

-- are we envisioning infill lots. This type of

-- this would apply to infill lots, new subdivisions, tear downs.

>> New subdivisions you plan for that, you are going to remove and take out. So I don't think that it would maybe apply. I could see where

-- where an infill lot would certainly

-- you might have the

-- you take that

-- those issues into consideration. I can see that.

>> Yes.

>> But new subdivisions, you plan for that. You plan for whatever it is that you are trying to accomplish and if you know that you are going to accomplish this, it's the same thing as Mueller. They planned for it. They have done it. 100%. No waivers. So

-- so I can see where

-- where there might be a provision for infill, but not in these subdivisions.

>> Spelman: Mueller was also an airport more or less by definition

--

>> that's true, I agree with that.

>> But interestingly enough, there's some pretty extreme slopes to get into the garages, whatever.

>> Spelman: I understand it's not a completely flat area.

>> Are you willing to admit to the possibility that there are some lots with a slope less than 10% where it just doesn't make sense to require a no-step entrance?

>> Yes, sir. I think those should be taken

-- infill lots should be taken into individual consideration.

>> Okay. If you are willing to consider the possibility, I would like to

-- to direct  
-- direct the staff, meaning in this case I think you  
-- to have that conversation with the home builders association and come back to us in the form of a briefing not just a memo. Because I think we'll probably have to discuss the implications of all of this. If you can come back to us in the form of a briefing sometime in the next 30 or 60 days, let me know what's a reasonable number for that. With a proposal for under what circumstances you would or would the no grant a waiver. For two  
-- would or would not grant a waiver. Two issues, speed, less than seven days that's a great thing. I think that would also be helpful given the up front costs associated particularly with subdivisions in laying out where the lots are going to go, where the driveways are going to go, thing like that. Laying out in advance the idea of predictability. Under what circumstances can I reasonably expect mr. McNabb and his staff to say yes, under what circumstances am I pretty sure near going to say no, knowing that in advance will help me lay out my subdivision, does that make sense?

[07:08:00]

>> Well, if I heard all of that, your thought process is still include subdivisions in that process?

>> That would

--

>> Spelman: I'm willing to admit to the possibility that there are some subdivisions with some lots on them that it just doesn't make any sense. If you are not willing to admit that possibility, you could probably persuade me, but I would like to at least hold that open as a possibility until further notice. I would like you to be able to have that conversation with mr. Savio and his friends.

>> I think we've already had that conversation frankly. We have been done this road over and over again. I'm willing to do whatever you guys tell me to do with all of my heart and I will try to accomplish whatever it is that you want me to try to accomplish. But I promise you, like I said, in the last meeting, in -- respectively as much as I could, I don't

-- I don't know that I can get there from here. You know? In this particular issue. I'll try.

>> Spelman: Subdivision just doesn't make any sense to you.

>> Doesn't make any sense to me. I think if you can accomplish

-- I think that you have the opportunity to plan for this, if there's time. To plan for it. I think that you have the opportunity to accomplish it. If you can't, there's 10% or if you have to have switch backs, then you don't have to do this. So you already have those provisions in place to give you a way to go because it's not just about the 10% slope. It's about switch backs, too.

>> Okay.

>> So we

-- we have a way for them

-- for folks to get there already. So

--

>> Spelman: Exceptions I don't have it in front of me. I probably could find it. But the other exceptions, which there we go.

>> Number two.

>> Spelman: We've got that already. He already mentioned the switchbacks. The home builders association mentioned that we do have other restrictions in the code as to where it is that you could place houses on a particular lot. Heritage trees, for example, may dictate that the house be in a particular part of the lot which might be more difficult to put a no-step entrance on. I believe there was another one and frankly I can't remember it right now. But  
-- but if you are willing to at least hold that off and have a conversation, if you after having held that conversation you conclude that it doesn't make any sense to have any kind of a waiver possibility for less than 10% lots and subdivisions, feel free to make that recommendation to us. But I would  
-- I would take it as a personal favor, sir, if you would be willing to at least have the conversation before you come back to us.

[07:10:25]

>> Sure, I would be happy to do  
-- I'll go down whatever path  
-- trust me, I've been doing it a long time.  
>> Spelman: I understand.  
>> I will run down those paths. I will run the traps.  
>> Spelman: I have a question now for the city attorney, if I could. If we wanted to hold open the possibility of a waiver for other  
-- actually the switch backs may give us sufficient information. On this. So maybe I don't need to talk about this. But we would need some  
-- I would  
-- I would value some  
-- some procedural or some additional information as to how your people will be looking at a waiver request and identifying that this one does and this one does not need switch backs. Would there  
-- how would you usually do that? Do you issue an administrative order, are there standard operating procedures or how does that work?  
>> That's a great question. If you were to envision, if you  
-- knew someone  
-- issues there  
-- there are chapter 3 requirements, components, international residential  
-- if you already have to plan for it. It includes height of foundation, from everything about egress, how to get in the house, out of the house, in emergencies. All of those issues, that's something that we require to be submitted for  
-- for the beginning of a process with a set of plans. So an architect  
-- a plan or a  
-- or a person submitting those plans that  
-- that a professional designer would have to submit plans that meet these requirements of the codes that are already adopted. And this is just a simple  
-- simple addition or not, I don't want to simplify it. It is an addition to those requirements, that's something that you would submit at that time. At the time that you make an application. Then the

review process begins and that's where the seven days comes in. At that time, what would happen is on the application, you would have a checkmark. You would have an additional checkmark or a question about visitability. And there's

-- you know, any requirement that we put into place as we

-- as we've been doing for

-- ever since I got on the scene or long, long before any of us got on the scene, you have

-- it takes time to have that requirement be understood and

-- and know how to comply. I'll give you an example. You know, we required tent surveys, I'm sure that you've heard of tent surveys. We didn't have a surveyor that knew how to do that in general when we first started requiring it. It took three years for

-- for the folks to figure out how to do that and provide that information. Almost every surveyor that

-- that has a business here in town and even out, you know, outside knows that how to provide that information now. It's no different with any requirement. It takes a little time. So

-- so you put it on the application, you check it, we review for it, you provide comments back, give the opportunity to the customer to

-- to provide any kind of additional information as needed in order to make that determination and that

-- that's the way it will move down through the process. There will be a learning curve, a little bit, but

remember, that these requirements are in the international residential code and adopted today. They

are already adopted as far as the ramp requirements. The language that we put in here that says that it

meets the requirements of the international and have been in the code for many adoptions, code

adoptions so this is nothing new to the scene or the world that we're in. Today if you go to a house

that's built and they have a ramp they have to comply with these requirements. It's no different. The

only thing that we're doing is taking a step from a door entry and removing it and saying this is how you have to get up to it. So I think that's kind of got lost in all of the translation here maybe.

[07:14:20]

>> Spelman: I understand the code itself is

-- it's universal in a sense. But it's my understanding there's only one large municipality or one large jurisdiction that is requiring no step entrances on all single family houses right now, that's yuma county, arizona, do you know any others.

>> I have a list of folks that have moved forward with this requirement. I can't recall them off the top of my head.

>> Do you remember any big cities that have done this?

>> I think atlanta put requirements in place many years ago for a no-step entrance. They may not be developing a lot. I have heard that comment. But at this time austin happens to be developing and we're fortunate for that. But anyway that's a good points. Austin is a trailblazer for a lot of things. We're known for that across the country of being

-- okay top, being the first, being

-- doing things that we need to do to provide the services that we provide for our citizens.

>> I like being a trailblazer, but I don't like being accused sometimes properly of putting undue restrictions.

>> I understand that.

>> Spelman: And extremely expensive restrictions in development given particularly how many people are moving here and how many houses we need to build in order to take care of them.

>> Yes, sir, I understand that. I think there's cost tradeoff on moving

-- removing or leveling out property and less concrete costs. I mean there's

-- you know, there's cost balances here. I can't speak, I can't tell you what the future holds, you can't, nobody can, as far as how much it's going to cost. I can only mean when we require a

-- put requirements in place that over time those requirements things balance out, they have balancing out. I believe that's why, if you look at concrete changes website they say there's no cost. Zero cost. It depends. It's the

-- set the circumstances that you gave, it's a perfect example of that.

[07:16:30]

>> Spelman: Concrete changes also admits there's some lots that you can't put a no-step entrance in, too.

>> Yes, sir.

>> Spelman: Okay. I think that I have exhausted myself, possibly you and the subject to the extent possible.

>> Yes, sir. Yes, sir.

>> Spelman: Thank you.

>> Mayor Leffingwell: Councilmember spelman said there was only one other large city that had this refresh my memory, then you inferred by naming atlanta as a city that had some kind of requirements. My understanding is that they don't go anywhere near this far. Before you talk more about atlanta, maybe we need to know exactly what their requirements are.

>> Yes, sir.

>> Mayor Leffingwell: Because I don't believe that's the case.

>> Okay. I stand corrected.

>> Mayor Leffingwell: So it sounds to me like some concerns have been raised by councilmember spelman that we need to have a more thoughtful process going into this waiver going into the waiver put into the ordinance that allows for the waiver. Seems to me like it would be in order to do that before we pass the ordinance. So there is a motion on the table for approval. If there's a motion to postpone for 30 days until we get that report, that would have to be a substitute motion. So is there a motion to that effect? I'll pass the chair to the mayor pro tem and I'll make that motion that we postpone until get the report back.

>> [Indiscernible].

>> Mayor leffingwell makes a motion to postpone this item until we get the report back from staff.

>> Mayor Leffingwell: Outlining their wafer procedures.

>> Cole: Outlining the waiver procedures.

>> Spelman: Mayor pro tem, I'll second the motion. I would not have made the motion because I trust our staff to

-- to do what needs to be done. But if the mayor would like to see the results of that conversation first

before passing this ordinance, I will defer to his judgment.

[07:18:40]

>> Cole: Councilmember tovo?

>> Tovo: We've had quite a bit of discussion about this. Quite a bit of stakeholder meetings, quite a number of stakeholder meetings. I believe that it's time to move forward. It seems to me that the concerns that have been raised as councilmember spelman was talking, I was listening to the exchange back and forth, seems to me we have two very good provisions right now in this ordinance for waivers, 10% or if

-- if you encounter a lot if a builder encounters a lot that we're a

-- where a no-step entrance is impossible without doing switch backs, I believe, our staff believes that will cover a variety of circumstances. The direction from the dais was asking mr. McNabb to go back, have some additional discussions and if there are other waiver

-- options that should be offered he can come to us in this briefing, in this report back and

-- and we can discuss them and he

-- the staff can bring forward a

-- a resolution, excuse me, an ordinance change and we could consider it at this point. But I don't see that it has to slow our really considerable work on this. When I say our, I'm really talking about the community and the staff considerable work on this ordinance. I believe we can make a decision on it today. We can move forward. Mr. McNabb and other staff and the home builders and anybody else who wants to be a part of that conversation can present other options for potential waivers and if we need to make some adjustments later on down the road and consider those waiver options we can do so. But -- but I believe there really has been quite a bit of discussion on this and I would also suggest the staff really have had those conversations and they

-- and other

-- other particular option waiver options haven't come forward. So I would say if after those conversations there aren't any other things that you believe should be in the ordinance, I hope that you will provide us with that recommendation. And a rationale for why. So I would really urge that we move forward today. I think there's much good, it's an important ordinance, and it's really time to close this chapter.

[07:20:54]

>> Cole: Mayor leffingwell well?

>> Mayor Leffingwell: I think it's important that we try to consider all of the variables before we go ahead and put through. It doesn't make sense to me to go ahead and put the ordinance into place and then go back and see how we're going to modify it. But I think the

-- the larger issue is, you know, builders and people buying houses do have a choice now. And that choice would be outside the city of austin. And frankly, we've been driving them outside of the city in droves for a number of years. The city is 300 square miles, but we have a metro area now that includes six counties and people have options rather than building in austin. And we're seeing them exercise

those options. Round rock is over 100,000 people now. Cedar park is over 50,000. San marcos is over 50,000. Kyle is the fastest growing city, I think, in the united states. I think. So I think that's what we're going to do. We're going to accelerate suburban sprawl with this and other similar regulations. So I would urge that we make sure that what we come up with is something that people can actually work with. I don't think we're there yet until we get these further waiver criterion.

>> Cole: Any further comments? We have councilmember morrison?

>> Morrison: I won't support the substitute motion. I agree with councilmember tovo and the fact that there has been

-- I don't know how long, mr. McNabb can you remind me of when this ordinance the stakeholder suggestion

-- discussions started.

>> In this particular round two years. Of course we had started for the '06 amendment we worked on that for three years.

>> Morrison: We've had two years to be discussing. I just want on to point out that I do believe that the properties that the extra waiver of properties for which compliance cannot be achieved without the use of switch backs, I think that's another very important thing to highlight here. Because that's going to cover a lot of the one-off issues, as you said. So

-- so I think that's important. The other thing that I think that it should be noted just to be clear, because I was a little confused during the discussion, that in fact the

-- it's

-- it would be easier to qualify for a waiver under this than under what we have in the code right now for our own stuff because

-- just to be clear, you have to be

-- that only

-- the code as its currently written for smart housing, only has a waiver

-- you have to be less than 3600 square feet. And have 10%. 10%.

[07:23:48]

>> Morrison: And 10% slope.

>> That's after lot. That's after development. Not predevelopment.

>> Morrison: Right. The way we have it written now there's no

-- you could have a large, a very large lot and still qualify for the waiver if you have got, for instance, challenging terrain and it would force you to do a switch back. So

-- so thank you.

>> Cole: I'll just add that it's from my understanding today that the 10% exception covers pretty much the waiver provision that's we have already been using in the smart housing provision. And so I'm trusting staff to be able to use those waivers and apply it here. And if there's additional need, based on what happens to come back with those and not have to hold up this ordinance right now. So I will not be supporting the substitute motion.

>> Mayor Leffingwell: I would just point that smart housing is a good program, it's been in place for a long time, it's optional. You either opt into smart housing or not. Because of all of the stringent

requirements like the one we're considering today, smart housing has been used very, very little. Would you agree with that?

>> I'm not sure exactly what the number of applications are, but we worked with the stakeholders that build the volume builders that build smart housing, not only volume builders, but they build many of them through this process. And I believe that

-- that some

-- most of these

--

>> Mayor Leffingwell: Never mind, that's okay. Go ahead.

>> Cole: Councilmember spelman? Did you have a comment? No? Okay. There's a motion and a second on the floor. All those in favor say aye.

>> Aye.

>> Cole: Those opposed say no.

>> No.

>> Cole: That motion fails on a vote of 4 to

-- 5 to 2, with councilmember man spelman voting no and mayor lee leffingwell voting no.

[07:25:52]

>> We voted yes.

>> Cole: All right. Oh, with the council members spelman and mayor leffingwell voting no and everyone voting yes and

-- and the other five voting no.

>> Mayor Leffingwell: Okay. I'll take the chair back. That brings us to the main motion. Councilmember riley?

>> Riley: I'm just

-- I just have a few questions. Mr. McNabb, I heard you say in the exchange with councilmember spelman about the cost implications of this item, one thing that you mentioned is that you believe there's an opportunity to plan for this if there's time. That

-- that

-- then that the available

-- that that time would help mitigate the cost impacts. I think that I understood you to say that.

>> Sir, I believe there's an opportunity with the time. Right now it's janua 1st, 2015. I assume that we're talking about the [indiscernible] except. JANUARY 1st, 2015 WOULD BE The effective date. In theory if I were a developer I would be looking at a plan now, probably year in advance, we're kind of close as far as that date. To move through the process. So I would be able to plan and adjust and in most cases I believe that

-- that a person would be able to accomplish visitability and as far as costs, it's hard to say depending on what it is that you are working with. But if you know ahead of time you can remove, dirt, if it's dirt, soil, rock, you can lower that and add additional components to the structure to be able to create visitability. So, yes, I believe it.

>> Original suggestion was that we set this at

-- ating effective date of january 21st, 2016. Are you confident that even sect a year earlier at 2015 that would be adequate to allow people to plan appropriately?

[07:27:55]

>> I believe we're close. But I believe that planning on a single family dwelling, that we should be able to accomplish that, yes.

>> Riley: I know that I have heard concerns about that from the home builders, I see mr. Savio here. I just wants to give you an opportunity to address that concern if you feel like setting a date of january 2015

-- why isn't almost a year enough time to allow people to adjust their plans?

>> [Indiscernible].

>> Testimony earlier, he said one of the things that you need to be able to do is in the subdivision itself do the proper grading. I might also that that in itself is rather difficult giving that we also have comprehensive watershed ordinances that limit the amount that have

-- of grading that you could do. But assuming that you could do that, it

-- it takes roughly a year just to develop a subdivision. So if the subdivision was in place today, starting that process, it would be a year from today you could

-- before the earliest house could even begin and be submitted for application.

>> So

--

>> Riley: You have suggested going back to the previously suggested start DATE OF JANUARY 1st, 2016. Is it really necessary to have a whole another year beyond january 2015 to

-- to allow for all of that work to proceed.

>> One of the things that I didn't talk about in the interest of time and simplicity, you then have the process of developing the house plans. Again the volume builder doesn't develop just one house plan for a lot. They develop a package of plans that goes into a subdivision. So you have

-- that process in itself of going and designing multiple plans and then

-- then having those ultimately approved by the city of austin through their process custom builders, again if you're talking about a custom home, it is very often that just the planning and the design

process itself working with an architect takes a year for that process alone. So again the

-- we would encourage the council to consider that 2016 is a viable date. It's also just a convenient date. Meaning that it's a date that's easy to remember, easy to benchmark, frankly easy for me to publicize.

[07:30:22]

>> Riley: No real reason why we have to go by the calendar year on this.

>> That's correct.

>> Riley: I'm wondering if I'm hearing different perspectives on

-- on whether that

-- that january 2015 will allow enough time. One possibility would be just to split the difference and set the date at mid year of 2015. Say july 1 of 2015. Just to allow a little bit more time for the planners

-- for the developers to make

-- [multiple voices]

>> if I may, first of all, I was always talk a little bit of something is better than a whole lot of nothing.

That's better than 2015 date. But remember we're talking

-- I ask you to remember mr. McNabb's testimony where he said you need to begin at the subdivision development phase when you're out there shaping those lots. Again, subdivisions don't happen instantaneously. It takes time to draw the plans, get those submitted. The city is again for a very small simple easy subdivision of 100 lots, typically it takes almost two years to go through the city's process.

To be able to do what your staff said, you've got to

-- you really do need to allow us more time and that's separate and apart from the house design process. Those can take place simultaneously. So I'm ignoring that.

>> Riley: Okay. Mr. McNabb, do you see any problem with setting the date at, for instance, July 1, 2015?

>> I think that's your pleasure. I think that we can work with that.

>> Riley: Okay. Well, council, I would offer what I would hope might be a friendly amendment to set the start date at July 1 of 2015 splitting the difference between the different suggested dates of

-- for the effective date of this ordinance and the idea is to allow a little more time to allow the developers to

-- to do some additional planning so that they can better absorb whatever additional cost might be entailed as a result of this ordinance.

[07:32:24]

>> This is for the exterior visible route.

>> That's right.

>> Morrison: Mayor?

>> Mayor Leffingwell: Councilmembers Morrison.

>> Morrison: I will take that as a friendly amendment. But out of respect for

-- people might have much different views on it, I would assume if you could make that as a formal motion so we could all weigh in rather than having me decide.

>> Mayor Leffingwell: Amendment by councilmember Riley, seconded by councilmember Spelman to set the

-- effective date of JULY 1st, 2015. All in favor of that

--

>> Mayor?

>> Councilmember Tovo?

>> Tovo: May I ask, Ms. McPhail, if she would like to comment on this or another of

--

>> if this is a compromise that's going to get future generations of Austinites access to their family and friends, then we're going to support it. I think that it's very important to realize that one of the most important components and benefits from visitability is that we can actually visit people. People lose that in translation. Sunday, you guys might be having Super Bowl parties, many people will. Many of us won't be going because we can't get in. So just food for thought.

>> Councilmember morrison.

>> Morrison: I want to add one statement on top of what ms. Mcphail said. She said many of us won't be going, referring to people that are disabled. I just want to say that for people that aren't disabled, it excludes me from being able to have friends over that would happen, too. It's a two-way street here. So it affects all of us.

[07:34:24]

>> Mayor Leffingwell: Councilmember martinez?

>> Martinez: Jennifer, I really appreciate that. I think you all more than anyone have always seen the long-term vision of this. It not just about today. It's about 30 years and 50 years from now. I appreciate you allowing for this amendment. I also want to thank others that are involved. I know the home builders and developers were a part of this process moving forward. I think we've come up with something that's reasonable. I think that question of cost is always going to be out there and be debated. I think once the ordinance takes effect, we can truly see what those ramifications are around some of these what I consider isolated scenarios that are being launched as a platform to not do anything at all. I would be support of this.

>> Mayor Leffingwell: Those in favor of the amendment say aye.

>> Aye.

>> Opposed no?

>> Mayor Leffingwell: Passes 7-0, that's part of the motion.

>> Riley: Mayor, a couple very minor things. First relates to outlets. Provides outlets and receptacles must be 15 inches above the floor. Home builders are not sure if that would continue to let them have floor outlets. Similar to what we have many places here in city hall. In the middle of a room, you have an outlet in the floor for media equipment or other things. So I'm

-- I would like to offer what I hope to be a friendly amendment just to add an additional phrase at the end of paragraph 2, of r 32.4 just to add a phrase saying except for floor outlets and receptacles, to make sure that floor outlets and receptacles will still be okay.

[07:36:30]

>> Mayor Leffingwell: Councilmember morrison is nodding and councilmember tovo. That's accepted.

>> Riley: I have heard potential conflicts with perhaps like the tree around or other parts of the building code that there may be times when there appears to be a conflict between

-- preserving a heritage tree and providing an accessible ramp. The suggestion would be we really ought to make [microphone interference] I understand enumerating those exceptions really isn't necessary.

Could you speak to that?

>> Yes, sir, I believe as in

-- within any ordinance, they are not

-- we do not

-- when there's a conflict, one doesn't outweigh necessarily as it relates. I'm talking about technical codes. Outweigh another. Generally the most stringent ordinance is what we

-- or requirement is what apply. I can't even imagine, in this community, having a heritage tree and removing a heritage tree. We always build around and it's part of the design criteria. So I can't imagine that that would be a conflict. But

-- but.

>> Okay.

>> You know.

>> Riley: Okay. I respect that. I just wanted to make sure we're on the same page on that. It's your sense that we will be able to work with the ordinance in spite of what might be perceived as apparent conflict. You feel like that those would just be managed in the normal course or implementation of the ordinance.

>> I think that's a good example of councilmember Spelman's example of having issues that you have to deal with. If you had a heritage tree, you couldn't give visitability or meet visitability requirements, then that would probably drive an exemption or a waiver.

>> Riley: And with what's before us today, do you believe the waiver would be available under the circumstances?

[07:38:35]

>> I believe it would be available with the language as it's written.

>> Riley: Great, thanks.

>> Mayor Leffingwell: Any other comments?

>> Spelman: Mayor? Inquiring as to the status of the direction that I was offering to Mr. McNabb before we considered alternative motions. Mr. McNabb are you still willing to have those conversations at least with respect to the one-off lots and the infill?

>> I'm willing to have any conversation

-- I'm willing to have any conversation that you ask me to have.

>> Spelman: I've a slightly more specific version of that. The two conditions that are now eligible for waivers are if a switch back would otherwise be required, which seems to be kind of fuzzy given that you can kind of avoid use of the switch back if you have enough dynamite. Alternatively if you have a 10% or greater slope. Seems to me that the focus of the conversations that you could be having would be to offer, if any were necessary, additional conditions under which it would be appropriate from your point of view to grant a waiver. Does that make sense?

>> Yes, sir.

>> Okay. Thanks.

>> Mayor Leffingwell: All right. All in favor of the motion say aye.

>> Aye.

>> Opposed say no? Passes on a vote of 6-1 with yours truly voting no.

>> Thank you.

>> Thank you all very much. Appreciate it.

[ Applause ]

>> Mayor Leffingwell: So the council will go into closed session to take up one item, that is pursuant to section 551.071 of the government code, the council will consult with legal counsel regarding one item,

item 25 legal issues related to the austin fire department hiring process noting that items 23 and 24 have been withdrawn. Without objection, the council will now go into executive session.

[09:04:53]

>> Mayor Leffingwell: We're out of closed session. In closed session we took up [inaudible] 23 and 24 were withdrawn. So we'll go now to item 48, which is the last item on our morning agenda pulled by councilmember spelman and we have two speakers. Gus pena. Don't see gus. David king.

>> Good afternoon. Thank you, mayor, mayor pro tem and councilmembers. My name is david king and I live in the zilker neighborhood. On the surface this sounds like a great idea and I think it's worthy of consideration, but, you know, the devil is in the details as they always say. So to me we have to watch out for and consider factors that are on the ground in austin today when we calculate an affordability index. Dichotomy of a few people at the top making

-- how we calculate the affordability index has to factor that in. And if you consider a majority of services are consumed by low and middle income families, then a budget cut or a flat budget would disproporately affect those groups. In while the high income families are getting wealthy from our great economy. So we have to factor that in to make sure that the affordability index does not inadvertently hurt the low and middle income families. And I would ask that that calculation and that formula, whatever is come up with, that it be vetted in the public and it be vetted through public -- through planning commission, whatever boards and let the public look at that and see how that's going to work. It sounds good on the surface and I signed up for this, but I think we have to really look closely as how it gets calculated. I know the purpose is not to inadvertently hurt these low and middle income families, it's to help people by not increasing the budget beyond what they can afford and I understand that and appreciate that, but I hope you will move with all diligence on this and be careful. The resolution looks to me like directs the city manager to calculate it and then implement it and I don't see anything else about public input or public review or vetting. But I do appreciate that you are trying to address this issue and I hope you will do it in a way that helps us close the inequity gap and help the low and middle income families here in austin. Thank you very much.

[09:07:41]

>> Mayor Leffingwell: So david, I'm a co-sponsor of this item, I'll let councilmember spelman speak for himself, but this has no force and effect. It's a tool to be able to reference during the budget making process. There's nothing necessarily has to be tied to it and all of the things

-- [lost audio]

>> Spelman: ... In any given year we might be able to stay inside or below the average increase in all austinites. It's going to depend on an annual basis. I have a question for you david, if I could. I understand your concern about the increase in disparity of incomes between the richest and the poorest, and if there were a way of identifying how that is changing on an annual basis and incorporating that into some kind of an index, I would love to do it. Do you have a sense where we could get information on an annual basis about that?

>> No, I'm sorry I don't, councilmember spelman. I'm not a real expert on this. Just looking at this on the

surface and seeing some concerns.

>> Spelman: It's a very reasonable insight and if you think of something or in talking with your friends you come up with something, I would be happy to hear about that.

>> Thank you very much.

>> Mayor Leffingwell: That's all the speakers we have signed up to speak.

>> Spelman: Mayor, I pulled that item because I heard through the grapevine there were councilmembers who had questions. Before I answer questions, I have an incredibly short power point presentation consisting of one slide and if you could put that first slide up, I would sure appreciate it. This is the slightly

[09:09:57]

[inaudible] version that showed up in the statesman this morning. That green line below shows the increase in total income in the city of austin. That takes into account inflation, it takes into account population increase and it takes into account the slight increase in per capita wages, salaries, dividends, rents, all the things that go into making up our income. That's based on tax receipts collected by i.R.S. And reported to the department of commerce, not the u.S. Chamber of commerce, the u.S. Department of commerce, which publishes these data online every year. The last two years are projections based on john hack hockenyos' projections. You can see total income of all the people residing inside the city of austin has about doubled since 1999, but our general fund spending has gone up by 150%. A 50% higher, 50% faster than the income of citizens of austin. Which means that we are systematically taking more out of people's pockets. I'm not proposing that we enact any kind of a policy to reverse that or to stop that, only that we enact a policy we're going to look over our shoulder and see what is happening to our citizens' income and take that into consideration as we come up with and make decisions about the budget. That's the end.

>> Mayor Leffingwell: One quick question because I thought I heard you say two different ways, this is city of austin income or m.S.A. Income?

>> Spelman: City of austin income. Those last two years are based on projections for m.S.A. Income backed off into what we can reasonably expect for austin, but this is just a

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[09:12:03]

>> Mayor Leffingwell: Councilmember morrison.

>> Morrison: My comments in some way echo mr. King's because I think this is an exciting idea and great to have benchmarks and obviously affordability is one of those things and I think it's important -- I fully understand it's not a requirement, just information, but it's important that as the number gets presented, you know, to the council in the coming year, that it's understood what the number is and the short comings that it might have. For instance, the fact that it doesn't really deal with the fact that we have an increasing disparity in incomes and a bimodal rest true abuse and the richest 85 people in the world have the same wealth as the lowest income half of the population. If you have a really big disparity, then just looking at this number doesn't

-- isn't good enough. So from my view this is a great start. I want to make sure we don't lose sight of it so it does need to be understood what shortcomings this might have and the corpus christi is of what that really means gets carried forward as presented in the coming years. And I do have a few specific questions. Basically the fact that I think we're talking about the fact that this in no way gets to the issue of per capita income and how that's changing. And one of the

-- one of the issues in this thing not being perfect, and I any you understand it's not perfect, it's a first cut, is that also our general fund is not funded by income tax. It's funded by a lot of other things that may be tied to income or may not be tied to income so to me that's another limitation that we need to keep in mind. Property values can be going up. We can have

-- people coming into town, but if we have a lot of people that are living on a fixed income, it's

-- this is going to send

-- send us in the wrong direction for that person. And if the mayor wouldn't mind it, if councilmember spelman and I enter into a colloquy for a moment, I have some other points that I would love to hear his comments on that.

[09:14:36]

>> Spelman: With respect to the

-- first, the reason this takes into account income and not for example wealth or assessed values is because there has been such a dramatic increase relative to income in the last few years. My housing

-- the value of the house I live in is a much larger percentage of my income, like 3 or 500 percent of my income, much greater than my income, but when I bought the house for the first time in 1997 it was much closer to my income. I think that's generally true for a lot of us. Our assessed value has gone up faster than incomes have. Using that as a basis for

-- or at least consideration of the budget this is going to prevent what we have been doing inadvertently and probably takes italy taking whatever comes in the door through property taxes, which has been increasing dramatically because of that increased in assessed values. And taking that with a grain of salt. The real issue is how much people are able to pay and that's tied to whether or not we have a section of the code or not, it's tied to people's annual incomes. [One moment, please, for change in captioners]

[09:17:25]

>> Morrison: We will do a calculation.

>> Spelman: They do in the an accidentation and deannexation. And county boundaries rarely change. That is a much more reliable time series for their purposes.

>> Morrison: Do we have a difference in city of austin and travis county residents inside the city, is that significant at all?

>> Spelman: I don't know the answer to that, and I'm not sure I can come up with a good answer. The assumption that is implicit is any given year, the change in income, travis county unincorporated area is consistent or parallel to the change in income in city of austin. They go up about 3%, we go up about 3%. I suspect that is fairly accurate on an annual basis.

>> Morrison: I have a related question. We might need staff to answer this. What percent of travis

county residents live

--

>> Spelman: 75%. Vast majority of Travis County residents will be in the City of Austin residents.

>> Morrison: I was confused in the beginning because we talked about city income and someplace it's total income, but we're talking about the collective income of the residents of Austin?

>> Spelman: Yes.

>> Morrison: I have a few discomforts with statements that are said as facts as opposed to good assumption. The city manager is directed to create a benchmark for the annual change in residents' income which residents' ability to pay for general fund services. It seems to be highly tied to it, but it is not quite exactly a measure, necessarily. I don't think you can prove that.

[09:19:35]

>> Spelman: If we wanted to add to the footnotes, we could have gotten to that level of detail, but we chose to keep it looking like most of the resolution.

>> Morrison: In the fifth whereas, are spending more on general fund services. One of the reasons -- that is why it is a very good assumption that they are. It is not that they are.

>> Spelman: Actually, I think it is a fact, up until at least 2012. Because we can measure the total income of citizens of Austin very accurately, given that 75% of Travis County residents are City of Austin residents. That annual changes for Travis County will be consistent with annual changes for the City of Austin, if you are willing to give me that, the rest of this has to be accurate.

>> Morrison: Maybe a mid read it. That is the problem in the language.

>> Mayor Leffingwell: Would the rest of us like to get a cup of coffee or something?

>> Morrison: It is important to get it right. It could have impacts down the road. I read this to be citizens are spending a larger share, collectively. And I was thinking when you said citizens per capita. So just tightening that up in a way an individual citizen is spending a larger share of that. We don't know.

>> Spelman: Some are more, some are less, but on average, they're spending more.

>> Morrison: Maybe we can say that. That would be comfortable. On average, they're spending more. I'm comfortable with supporting this, with the understanding that we can maybe breakdown some of the information, and maybe work toward if something great comes up, some great ideas come up, work toward another more refined or an additional benchmark to look at.

[09:21:45]

>> Spelman: I will look at the disparity of income

-- you are talking about the disparity issues.

>> Morrison: Right.

>> Spelman: I will look at the disparity issues.

>> Morrison: I think this makes a good argument for work session.

>> Mayor Leffingwell: When it is not snowing and sleeting, we will have those. I was interested in the comment that Austin is 75% Travis County, namely because last time I checked it was 80. I think that is consistent with what we are seeing in the metro area, as a whole, outside of the city is growing two to

three times as fast as inside the city. That would account for, I believe, the difference. Also, I think what we are seeing is more wealth outside the city. Travis county, for example, will have a significantly higher median or average appraised value than the city itself, too. So a lot of numbers to play with. We have to be very careful about

-- I have the experience that you have to be careful when you are talking about the city of austin or metro area.

>> Cole: Mayor?

>> Mayor leffingwell: Mayor pro tem.

>> Cole: What about the enterprise funds. I notice you mentioned the funds.

>> Spelman: I was doing this with myself and my staff. Only so far we could go. Second issue, enterprise funds are paid by rates. Therefore two issues here. First issue, I can choose to within some limits, I can choose to buy more or less water. I can choose to buy more or less electricity, by how a set my stem -- thermostat, hppliances. I have spending choices over those funds and not my taxes. Rates, we do a good job of comparing water, electric, trash pickup rates with other comparable cities around texas and the united states. It seems to me, that is the right way for us to make sure our rates don't go out of control is by continually comparing them to other cities. Very directly.

[09:24:15]

>> Cole: I understand that, I know that people look at our

-- the money they have to give the city, whether it is for property taxes or water, electricity or solid waste. So I think maybe another analysis needs to be done or you can say that we will take it up in audit and finance, but the question of how much the rates

-- we get this in the budget. Ok. This is the property tax rate, and when we consider the other enterprise fund rates, we know this is total what is happening, but I don't think we look at it on a chart in comparison to people's income. So I think we could do that and really start to get at a realistic picture and not

-- we appreciate all the work you have done and commend you for doing it. I think this is effective tool for the process. But I thought oh, wow, can we better refine it to get more calculations.

>> Spelman: This is a guess until I put a pencil to it. If we look at the total size of the city of austin, total spending, including enterprise funds, that has been increasing faster than the general fund has.

>> Cole: I suspected that, but I didn't want to make that leap in logic without looking at the numbers. I'm glad to hear that. That simply suggests we should do that work in terms of looking at the enterprise funds. Let me also ask you, because how your analysis fits in to the calculation of cpi for the city of austin?

>> Spelman: Has nothing to do with it. I do not pay attention to inflation here. This is the 1999 income and spending numbers are based on 1999 funds it is one of the reasons why spending is going up.

[09:26:32]

>> Cole: We take it out as a factor.

>> Spelman: It is not material here.

>> Cole: The last question I wanted to talk about is we have talked previously in work sessions about the other taxing entities. And people wanting to know what the total tax bill is gallons to look like. Not just the city taxes, county taxes, school district taxes. Some think all the taxes come from the city.

[Chuckling] it really gets bad. I think we know the school district has the lion's share of the taxes.

>> Spelman: Yeah.

>> Cole: I would like us to think about and maybe can do in committee also, looking at your affordability benchmark and plugging in

-- not prospectively, because we don't know what the other entities will do, but the rates they used in the past, for us to be able to look at the percentage of income. Help me with that idea?

>> Spelman: Well, first, marty tuy sparkuly did a similar analysis for travis county as I did for the city.

Travis county numbers are known. They're easy to find. It is difficult to do a similar analysis for aids or any of the independent school districts inside the city of austin. It is difficult to do it for the community college district, because the boundaries are just, plain, flat out strange, and figuring out what the average income or total income for aids's boundaries are is very difficult to do. I think it can be done, but it would require a lot more staff work than I had available to me at the time I was calculating this and probably require a fair amount of work.

>> Cole: I wonder if

-- we know there are five districts within the city of austin, if we could just look at

-- I don't know if that makes aids within the city of austin. The hard part is identifying the population in the aids boundary that is also inside austin, and ditto with the other districts. That is hard to do.

[09:28:53]

>> Cole: I appreciate your work. I think this is a really good job.

>> Mayor leffingwell: I have to make a quick comment including utilities in this study. I'm glad to see that it in fact didn't. Those, austin energy, water, wastewater, those are all businesses. Their fees are not discretionary. Their fees are determined by what their costs are, largely, and a couple of other factors that business have to use as far as future expenditures, so forth. But we know that we can have an influence on what the costs are. Our hands are pretty much tied when we decide to vote on what the rates will be. That is why I am sort of in the habit in this place in reminding everybody we have cost containment policies in place for austin energy, and we have to be mindful of the fact that when we do something to the water utility or to the austin energy, to require them to do something that costs a lot of money that that will come out in rates. That's the time to think about the impact of rates, not in the context of some land on a graph, but every time we do something like increase rebates or whatever it, that will come out on the rate side. I guess we can entertain a motion on this item.

>> Spelman: Move approval.

>> Mayor leffingwell: I will second. Any further discussion? All those in favor say aye. Opposed say no. Passes on vote 7-0. Mr. Garmse, I believe you're up, aren't you.

>> Thank you, mayor, council. You can take us through the zoning.

[09:30:59]

>> Cole: Mayor?

>> Mayor leffingwell: Mayor pro tem.

>> Cole: I need to recuse myself on item 20, that we passed on consent. It is simply setting a public hearing, but I need to recuse myself.

>> Mayor leffingwell: It is too late, we already voted.

>> Reconsider item 20.

>> Second.

>> Mayor leffingwell: The court will show mayor pro tem recused on item 20.

>> I withdraw my motion.

>> Ok. Our 2:00 p.M. Zoning ordinance and restrictive covenants. I have c 14-2013-0057. Second and 30 ordinance readings for the property at 3500 west 35th street, to zone the public to p public district zoning. This is ready, again, for consent approval. Item 27, c 14-2013-0110. This is on 6507, 6603 and 650 five, east riverside drive and 2108 thrasher. A request to postpone this item to the may 15 agenda. Item 28 is case c 14-2013-0144 for property at 8121/2 east second street to zone to p public district zoning. The recommendation was to grant said p district zoning. This is ready for consent approval on all three readings. Item 29 is case c 14 h-2013-0140 for the property located at 2507 ken more court. Zone the property two family residents, historic landmark. Neighborhood plan, known as ss 3 hmp district zoning. The recommendation was to approve this and ready for consent on all three readings. Item 30, c 14-2013-0146 for property at 1191 anderson mill road. Staff is requesting postponement to the february 13th agenda. Staff is answering some questions for the applicant that has arisen in reference to this case item 31, mayor you probably have a few people that signed up to speak in regards to this item.

[09:33:59]

>> Mayor leffingwell: We had eight people, actually.

>> That will be a discussion item, item 31. Item 32, staff would postpone this item to the 13th. Also to correct the posting related to this particular item. We would change to reflect that clarity on the restrictive covenant amendment staff apologizes for those that are present this afternoon that came down and this posting, I believe because of the weather we didn't get it posted right on friday. Item 33 is a discussion item. This is a zoning case that is related to that same property. Item number 34, is case npa-2013-0019.01. This is for the central austin combined neighborhood plan to change the land use designation on the future land use map for property at 710 east 41st street from civic to mixed use land use. And this is ready for consent approval on all three readings. The related item, item 35, c 14-2013-0040, for the same property located at 710 east 41st street, staff would actually ask you to pause on this item. I understand there is a little tweak to the ordinance that is being worked on, and it will be back in just a little bit. So I'll not offer 35 for consent at this time, I think it will be when the little change is made to clarify something in that ordinance.

>> Mayor leffingwell: Questions? Council member morrison. Did you say item 35.

[09:36:07]

>> That and 28 will be a discussion item.

>> Mayor and council on item 32, the attorney representing the adjacent property owners has raised an objection regarding the item. Although it is not properly posted, would like you to consider a postponement of 32 and 33 because of the posting error on 32. So I'll make that known at this time.

>> Mayor leffingwell: For now, we'll consider these to be discussion items. We'll get back and discuss possible postponement. So we're on 36, I believe.

>> Mayor, I don't believe I have an ordinance back. My staff to offer 36 as a consent item, so I ask that we not offer that as consent at this time, and wait when the ordinance arrives in the room and you have the opportunity to look at it and we can explain what the minor change is, so everyone is aware and we can offer that as a consent item.

>> Mayor leffingwell: You said 37?

[09:38:07]

>> Morrison: Item 35.

>> Mayor leffingwell: Those are 4:00 items anyway.

>> Right, 36 is a 4:00.

>> Mayor leffingwell: Let me read the consent agenda for zoning cases. Two approve item number 26 on second and third reading, postpone item 27 until may 15, to postpublic hearing and approve item 29 on all three readings. To postpone item 30 until february 13. To approve item number -- postpone public hearing and approve item 34 on all three readings. And I've got 35 as a discussion item?

>> Mayor, actually, mr. Rosto is passing out the revises ordinance for 35. So once you receive this -- I might mr. Rosto to quickly highlight what the changes are and I think we can offer item 35 for consent approval on third reading as well.

>> Mayor leffingwell: I see it here that you are speaking very slowly.

>> Mayor, council, on item 35, we made one change on page 3, line 16 was a tyo. We changed tract 1 to tract 2 and we added on the next page, on the top of the next page, on top of 4, paragraph b, we added the words "save and except underground parking is permitted no close than 75 feet to the northern boundary line." That reflects what was agreed to in the private restrictive covenant. With the correction of those, we're ready for the second and third.

[09:40:12]

>> Mayor leffingwell: With the changes to 35 on the consent agenda to close the public hearing and move approval for all three readings.

>> Move approval on third reading.

>> Mayor leffingwell: Third reading. And that's the same for 34 and 35.

>> That's correct.

>> Mayor leffingwell: Ok. I'll entertain a motion. Council member martinez, pro tem. Councilmember toasto?

>> Tovo: I want to make sure it is approved.

>> Mayor leffingwell: Passes on a vote of 7-0. I think that takes us to discussion postponement of items

32 and 33. Is that correct?

>> That's correct. 33 is c 814-88-0001.10. It is the zoning of the pud district changing to change the condition, to make sure I read that into the record. The applicant for the property owner is here and the representative for the opposing neighborhood is also here. The neighborhood is the one that is asking that both the zoning case and covenant be considered together, although we cannot consider 32 because of the posting.

>> Mayor leffingwell: We can't consider item 32 because it is improperly posting?

>> That's correct.

>> Mayor leffingwell: Your original suggestion is to postpone until february 13?

>> That's correct.

>> Mayor leffingwell: Mr. Joseph.

[09:42:12]

>> Mayor, council, my name is john joseph. They're tying it, it makes no sense to argue them separately. I understand the staff needs a mistake and need to postpone that by law. I understand that. What I'm suggesting is that 33 be postponed as well so they both be taken together. It makes no sense to argue them separately. The issues are the same, they should be considered at the same time. I respectfully request that that be the case.

>> Mayor leffingwell: Mr. Subtle, you want to respond? Number 32 has to be postponed. The question is: Why not postpone item 33 until the same day?

>> Mayor members of the council, I'm here on behalf of the applicant, the guy trying to develop this tract. These cases have actually been two separate cases because you have the zoning issue of whether the land use is appropriate. And if that is the case, while the covenant covers that as well, the neighborhood has raised a legal issue as to who has to sign the covenant. So probably what would have happened tonight is we might have heard the zoning case anyway, but we never do the covenant until the zoning case is done on second and third reading. What my client would request is we're here, we're ready to go. We would like to hear the zoning case tonight, knowing that you probably won't act on it on all three readings, but it would give us an indication if the council thinks the land use is appropriate. If the land use is appropriate, pass it on the first reading, bring it back on the 13th when we dot issue of the covenant and then we won't lose time. If we don't hear the zoning tonight, my client is under position that he's under contract, has no answer and we're in a position no different than we would have been. We were only gonna hear the case for first reading tonight only and not act on the covenant. We and they go forward. They've had the postponement request, we don't think they're entitled to another. We would ask that you not postpone it. And we get at least a hearing on whether the land use is appropriate.

[09:44:33]

>> Mayor, you can consider it on all three readings next time as well.

>> Mayor leffingwell: I understand.

>> You can consider them all the same time mest we have to have an action on item 32. So moved by

councilmember martinez and seconded by councilmember spelman. That passes, now discussion on the request for postponement of item 33, if there is no motion to postpone, the case will be heard. Is there a motion? All right. We'll hear the case tonight.

>> Thank you will, mayor, council. I'll move on to item 28, which is the first discussion item. C 14-2013-0144. This is a parcel owned by austin energy, the applicant is also austin energy on this particular parcel. Zoning change was recommended to you unanimously on the petition to zone it to p public zoning. It is a small tract. 6/ten of an acre. Currently vacant. Austin energy plans to use the tract to support the downtown water operations, however the exact future or permanent use is unknown at this time. Staff recommendation is to zone this p public. I believe we have a representative from austin energy here that can probably go into some detail on the property. I will pause if you have questions. I believe you have two speakers that want to speak.

>> Mayor leffingwell: We do. Do you have any presentation to make?

[09:46:35]

>> No, sir.

>> Mayor leffingwell: We'll go to our speakers. No allotment of time for the applicant. And nobody has signed up in favor. So I will go to those signed up against. Kelly marcus. Is kelly marcus here? Cathy marcus. You're cathy marcus. So are you barry louis? So you are signed up, but you're signed up neutral.

>> She would like me to speak first.

>> You are on your own and you are signed up against?

>> Yes.

>> Mayor leffingwell: You have three minutes.

>> Mayor, council, my name is barry lewis, I'm a member of the downtown austin neighborhood association. I thank you for your time and your service. I rise to speak against this rezoning, although dana supports the rezoning, supports the use of the property, supports the additional chilled water facilities to service downtown and increasing density downtown. Thank you for the map. I passed to the clerk for the mayor and council to see a much cruder version of that map that shows the proximity of the crescent tract to a number of existing residential properties. There are negotiation to the four shown, there are three more underway or announced. Residents at seaholm, 311 buoy and the twin towers on the former austin energy property. Our objection is not to the zoning it's to the noise that could come an austin energy instillation on that side. The relevant facts are that sound travels not just horizontal, but rises like hot air. The shape and topography of the crescent site, that arc creates a natural amphitheater which amplify and project sound. It is very close to seven major residential developments that I already named. If you take only the residences that face toward the crescent tract, we're talking about over 500 residences which will be affected by whatever is done on that property. The facility will operate 24 hours a day. Logically, if there is ever a chiller plant there, it will be operating at night, because that is when the energy is most abundant and least expensive. Accepted noise limits for areas of residential use are in the area of 45 to 50 decibel range. Austin energy is in a position, we believe, at little or no additional cost to design and construct facilities that comply with reasonable noise limits. Again, we have no objection to the rezoning. We ask that you rezone it with the condition

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[09:50:25]

>> mayor leffingwell: And your time is expired.

>> Thank you.

>> Mayor leffingwell: Cathy marcus.

>> Hello, I'm cathy marcus, I'm a resident at the spring condominiums, which is 200 feet from the proposed crescent chilled water plant. Since we made the commitment, my husband and I to move downtown four and a half years ago, we have been surrounded by constant construction, park gables, clearing of the ground of the seaholm plant and the construction of the buildings, the gables tower and 311 buoy street. The noise and dirt has restricted the use of the patio. Sunday is wonderful. It gives us a hope for a normal and vibrant neighborhood which will reach in the hundreds and the thousands, until I saw the construction of the crescent tract. At one time a garage was in the renderings, being within 500 feet of the zoning, I was surprised I didn't get notice. Until a fellow member told me. I started to research that there would be a water chilling station and austin energy will determine what permanent facilities are required which may include a permanent chiller facility, energy storing bank or booster pumps. The decibel levels for the equipment was provided by the vendor to austin energy. 74 decibels, vertical height of 50 feet and 67 horizontal distance. This is the volume of a y -- leaf blower but it doesn't get turned off. The recommendation of 55 decibels or less, but 45 decibels to be sleep criteria. Even the 65 decibel volume will be 100 times too loud for a healthful sleep. Noise impairs sleep, even if the sleeper is not awakened. On page 11, provided by austin energy, I quote, it says, given that the railroad tracks are heavily trafficked. Any potential noise concerns about a chiller facility or other onsite equipment seems potentially mooted. This statement does not take into account the intermittent noise rather than constant noise. A total spring resident wrote me today in her letter, I think I would just have to move if they put that in. On my side of the building, which is the east side of the building, every noise echos like a canyon between 311 buoy, gable and the spring. This will add to the noise. The site is problematic, the southern 2/3 has been tested by the gables tower garage. They had to stop construction.

[09:53:40]

[Beep] at five and a half stories.

>> Mayor leffingwell: That's your time.

>> I thought I had five minutes. May I finish with one sentence?

>> Mayor leffingwell: One sentence.

>> I respectfully request a delay until they come up with more concrete plans with the space and takes into consideration the surrounding residents. Thank you.

>> Mayor leffingwell: Thank you. [Indiscernible] may have a question for you. A question for you.

>> [Indiscernible].

>> Morrison: You said you heard from austin energy, did you sit down and work at the table with them or you had a brief conversation?

>> I had the austin police commission. I have been in correspondence, asking him questions about the

noise level. He's answered those questions for me. Since I didn't find out until mid-december that was even happening and it was during the holiday break, I didn't not have a chance to sit down. I would be very happy to do that.

>> Cole: Mayor I have a quick question for ms. Marcus. You gave us decibel levels, where did those come from?

>> They actually came from austin energy. The water chilling system plant, the people who manufacture that gave these numbers they said how loud their water chilling plant is. We're not sure if that will be built, but that is standard for the water chilling plant.

>> Cole: I wanted you to say you needed 45 decibels to be good for being able to sleep. Did they tell you that they would be able to do that?

>> No, they did not. That is what I got from the world health organization. Since I have not had discussion with them, they haven't been able to tell me that.

[09:55:42]

>> Cole: Thank you.

>> Mayor leffingwell: Three minutes of rebuttal from the applicant. Are you the applicant?

>> Yes, council, my name is sonny pool. I'm here to reassure you this project is an infrastructure project, which is no different for us than a substation project. The commitment we made to council for the past four years on doing the community input process will be applied to this project. We do not know what the design looks like. We're looking for some of the developments that's at's home. Once that is done, I have a better idea of what to do. We will not limit our participation in this process to 500 feet. We look for all the neighborhood associations impacted and invite them all to come. And be involved in the community input process on the design process, which we committed to work with the design commission on. We will be following that process as well. So there will be several opportunities, many opportunities for the community to participate, give their input. Identify concerns. Austin energy will make every effort to address those concerns, we will take that to the design commission, talk to you, after we talk to everyone and present a proposal and get your input as well before we move forward. That is the process we have been implementing for the past few years. We will continue to do that. We want to assure the community they will be heard and will have the opportunity to present their issues to us upon if you would like tim collins with the water folks can answer any specific questions.

>> Mayor leffingwell: It is my understanding this zoning change is a housekeeping item. The city

-- legal mely the city could build it

-- legally, the city could build it, no matter what the zoning is. The city has tried to conform to its own policies. It is merely a housekeeping item. If a chiller is put on that plant, that would be a new council-approved process, with the neighborhood bidding process and the expense of doing that would come back to the council for approval. Is that correct?

[09:58:25]

>> It is my understanding that any property purchased by the city utility austin energy that is not zoned p or does not have current zoning to allow the utility plants to put on there has to be put on p.

>> Mayor leffingwell: I addressed that, if you listen to me. Technically, according to state law, you don't have to do that, but by theredition, you want the correct zoning.

>> It will come back, because it will have a contract aspending times that you will see

-- and spending times that you will see it as well.

>> Mayor leffingwell: It will probably come back, the actual chilling station itself, that expense?

>> I will let the chiller guy tell you that.

>> Mayor, council, jim collins, serving as director of the austin energy cooling program. The question is: Will we be back to council? Absolutely. It will be an expenditure in excess of our

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>> mayor leffingwell: Ok. That answers my question. To sum up, the item that is causing the controversy, the chiller, that will come back to the council, you can come back and discuss that at another time. This is merely the zoning part of it. Councilmember spelman?

>> Spelman: While we have you here, just to short circuit a little bit, are there things you have done to reduce the impact of the chilling plant, things to do to make it less noisy?

>> There are mitigation straiies when we built the second plant by the convention center. We did several things for the sound continuation, including the undulating metal screening outside of the building and the orientation of the cooling towers themselves. Those kind of things can be taken into consideration. I would like to point out if we do a chiller facility on this site, it would be a smaller facility. Number one, the size of the property as we're considering it, it might be considered a booster plant, not like the plant that runs all the time. But one that boosts up our ability to serve folks on the western side of the system.

[10:01:02]

>> Spelman: So the estimates you gave the woman that was talking to us at 67 or 74 decibels, those are based on a full-size plant, not on the basis of the sort of plant that is most likely, which you will take back to us in a few months.

>> Those numbers were from a chiller, more specifically a cooling tower manufacturers that is their standard offering without the mitt getting strategy.

>> Spelman: Can you give me the extent that the mitigating situations how they would work.

>> I cannot quantify that with data. We went through sizable, considerable effort to make it not only less sound coming from the facility. But visually, aesthetically having it fit in with the neighborhood.

>> Spelman: They did work to some extent?

>> Yes, sir.

>> Spelman: If we were hearing it, I would hold your feet to the fire with actual decibel ratings. In the future, you will want those for us. But for now, that is fine, thanks.

>> Cole: I have a follow-up question.

>> Mayor leffingwell: Mayor pro tem.

>> Cole: Can you tell us what the anticipate the des pol levers to be. It is very complicated because a, I don't know specifically what we are doing there. B, the better question might be what the decibel levels would be at a certain location, if you want to talk about the perimeter of the property, it might be a different number. It might be we take into consideration that many offure neighbors and most of those folks being our customers live to the west and north. It might be we employ strategies that focus that

sound off in a different direction.

>> Cole: Once you complete the design and go through the design and meet with the neighbors, when you come back to council, you can tell us what the disbel level will be?

[10:03:08]

>> Yes, ma'am, that will be vetted by that time. As we go through the community process and work through our schematics and ultimately hone in on a design, then we can take those projections and readings around the perimeter of the site.

>> Mayor leffingwell: Just one quick. Property is currently zoned dmu-co. I don't know what the co is. Presumably with that zoning, the city could sell it to somebody and put in an all-night bar. You may be better off with the p zoning. Councilmember riley.

>> Riley: Yes. I heard you say that at this point, you don't know what the facility will look like, and whenever that does take shape, it would need to come back here for approval. If that is the case, why do we need to proceed with the zoning now? Why can't we hold off until we have a better feel for what we are getting with that zoning?

>> Fair enough. My sense was we wanted to get the zoning right, get it done, before we expending hard dollars in the design and development of the design.

>> Riley: I have to say that I have serious reservations about proceeding with that, on giving that authority to the department that feels like any noise issues are potentially muted by the fact that a train comes by now and then. That is a very unfortunate statement to make and cost a lot in terms of credibility that the department has now and the test level people have in terms of saying sure, go ahead, do what you want. It is obvious that staff doesn't take these issues seriously around there.

>> Sir, I would agree with you. I would tell you that comment did not come from my shop. It was probably an offhanded comment. I know turns out it was written, but that is not the spirit in which we have gone into this and which we would continue as we work through the community. That is not what we are.

[10:05:24]

>> Riley: Previously, this site was expected to be used for parking. If we had proceeded with that plan and used that for parking, where would the chiller have gone? What was the plan before that change?

>> There wasn't a specific alternate plan. We maintain a sales forecast, a listing of potential customers and when they might arrive. So a lot of our planning is based on our customers, when they develop. So it has really been hard for us to forecast what we need four years from now. And the horizon we use is a two-year horizon. So having said that, we have explored other options, we have approached the state of texas, facilities commission about expanding our presence at paul robbins plant. We had two programmers, in the western edge, if you will. Those discussions are still ongoing. We talked to travis county about their property that is immediately east of the paul robbins plant. We have explored several options. From my perspective, when a year and a half ago when it became evident that the site wouldn't support, feasibly support that parking structure, it looked like a great opportunity to say good, there is a small piece of property, it has a lot of limitations with regard to the train tracks on the east.

The hard wall of the gables on the right. The service, the private road on the north, so there is a property that we think we could make something work with.

>> Riley: Yet that hard wall is a residential project, adjacent to this. I can understand why folks have serious concerns about giving authority for the placement of this equipment here. At this point do we know what residents are to expect?

[10:07:48]

>> No, sir. I pointed out, there is the railroad tracks to the east and an embankment of about 30 feet. The wall on the west. In my mind, at least, we put some sort of structure perimeter around the property. We agreed with the waterfront overlay board that we would bring anything design back to them, after they approved the zoning request. We committed to bringing it back. To include that the wall that faces the river, that it would be appropriate and acceptable.

>> That will be something we see down the road. As we go through the extensive community input process, we will be back to brief you, and beyond that, then, the purchase of whatever it is we're gonna do.

>> Mayor Ieffingwell: Councilmember tovo.

>> Tovo: Would it be possible for you to limit the decibels to 50, to make that commitment as part of the zoning.

>> Would you say that again, please.

>> Tovo: You heard the question from some of the neighbors of the site that austin energy could commit to limiting the decibel level to 50. Is that something you are prepared to do?

>> No, ma'am, that is an extremely steep hill to climb. I point out vmgs lefrjsz

--

>> I point outside the ordinance allowed 70 db. Sound is measured on the rhythmic scale. A db of 50 is a quarter of the sound of 70. That is

-- we will try our best to bring that down, but I don't think I can commit to a level of 1/4 the standard accepted practice.

[10:09:56]

>> Tovo: Thank you.

>> Riley: Council member, if there was a single-family neighborhood that this was next to, it would be 70 decibels from the property line, just as he said. During our conversation, I have a sound meter on the iphone. Our conversations have been hovering around 60 and 65, most of our discussion while we have been talking. We have had incidents with outdoor amplified sound permits. We have taken many decibel levels, even background noise at restaurants have been 70 decibels in some of the cases I brought before you in the last two years. The standard throughout the city, if there a single-family neighborhood right next-door or if you go out to an air-conditioning unit that is next-door to most single-family homes, you probably get more than 70 if you are up on the unit and probably over 60 if you are 5 feet away. Most three, four-ton air-conditioning units found throughout the city of austin.

>> Tovo: Thank you, I appreciate that additional information. I will say there is nobody trying to visibly

try to sleep in here. The neighbors brought up the good point that that is how they would like to use their residences which they invested considerable money in. I appreciate their concern. But thank you for that additional context.

>> Mayor leffingwell: Councilmember morrison.

>> Morrison: I think I am left with a couple of questions. You might have answered this. Are you doing sort of a sound shed study that though shows how the sound might move. That will be a complicated geometry there to work with.

>> As we develop and hone in on a design, yes, we will do the sound studies at the perimeter. And as we work with the community and the neighbors, we'll work to continue to suppress that and or direct it away from the residences.

[10:12:11]

>> Morrison: Ok. So you're not necessarily going to do a study that shows how sound travels from that source?

>> I didn't understand.

>> Morrison: That's what I meant. Because you have buildings that it will be bouncing off of, will you take that into an account

--

>> yes.

>> Morrison: I heard you say look at sound at the perimeter. This is looking at sound beyond the perimeter and how it travels.

>> Yes.

>> Morrison: I get the issue of 50, 75 or 70. I appreciate there needs to be work there. I think the fact that it may well be a constant sound, it is much different than background noise from music that comes and goes or trains. And I want to give a quick comment that I know mr. Pool has worked several times on community outreach projects, and successfully. I think you are probably getting pretty good at it. As long as we make sure you continue to good work, I feel confident. We have our urban design commission looking at infrastructure projects as well. I assume it will go to them also. I see mr. Pool nodding his head. Two last questions: Will there be art and public places involved in this? You're not putting an art wall around it, are you?

>> Hard to know. I think we will want to do something for some sort of visual screening, some of the input we got from the water law overlay board talked about greenery, trees, vines, other things. Hard to say. When you asked about urban design.

[10:14:21]

>> Design submission.

>> Sonny pool is nodding his head you will visit the design commission. They were doing a lot of work

-- I would visit with them early on. They have guidelines they're working on for infrastructure development in the urban environment. To make sure that we appreciate the fact it is in an urban environment. My last question might be for greg, that is

-- could you help us understand mr. Garmse, can you help us understand when a resident of spring condominiums would be notified of a zoning change equip.

>> If there was a zoning change, today we would notify property owners within 500 feet. We name utility customers within 500 feet and registered organization within 500 feet into the area of being zoned. We can see what the rationale was, I think she said several years.

>> Four and a half years. She should be on the list unless legal notice is sent to a different address.

>> Morrison: If you could check that, make sure we don't have a glitch for noichgz.

>> We will check the file.

>> Morrison: I suppose you can work with mr. Pool and ae when they are doing community outreach.

>> Yes, we worked with austin energy before on their installations as they have gone in, sometimes on aesthetics or sound or a temp carrier construction yard.

>> Morrison: And actually, I meant how to reach interested stakeholders.

>> Yes, we will provide information to them on that area.

>> Morrison: Thank you.

[10:16:25]

>> Mayor leffingwell: This is ready for all three readings? I entertain a motion. Councilmember spelman moves to close the public hearing and approve all three reading presidency. A second by councilmember martinez. Councilmember riley.

>> Riley: I cannot support the motion. This is a very important, evolving area. We have spent a lot of time talking about this area and various aspects of the city's investment. That has entailed an awful lot of challenges. I remember one set of those challenges related to the austin energy substation that we already had over there, a little bit closer to where we are today. We had widespread agreement that that substation ought to come out. We looked at doing that. The cost was too high. Couldn't figure out how to do it. We proceeded to spend a lot of money on the development of a wall to be placed around it. Spent a long time arguing about what that wall would look like. Here we are to put in something else, which staff said is no different from a substation project. We're giving them authority to proceed with a substation-like piece of infrastructure in there without knowing what it would look like or how it would affect the lives are public in the area, I believe we should postpone until we know what it would look like, how much noise it will put out and how it will impact the residents and visitors in the surrounding area. There is too much at stake for us to blindly give authority for the infrastructure to go in there when we don't know what impact it would have on the surrounding area.

>> Mayor leffingwell: I will support the motion. Again, this is not authority to put a chiller in. That will come at a later date. This is zoning

-- I housekeeping matter that is done by condition, not absolutely law. There will be opportunity at later date to study noise, aesthetics, et cetera, to make sure it is a positive amenity for the community. That is important, too. I do intend to support it. Any other comments? Councilmember tovo.

[10:19:06]

>> Tovo: That is a question for me. I would like to ask austin energy would there be an impact if you

were to hear this on first reading, or postpone it to allow some additional design work to come forward?

>> I think any postponement only delays our process and our ability to move on doing that design development. I anticipate the design development to take a minimum of six months if not much, much longer. Oh, interest is to get the zoning taken care of and go through the process of doing a design development and get input from the community, and all of that will be done well before the times we're back before the dais.

>> Yes, if you come back with a design that was of grave concern, enough to the point where the council voted

-- I wonder if there is an in between, where you can come back with slightly more of a concept for the council to consider before proceeding with the designing.

>> I agree, if your stit and our constituent said it was unacceptable, that would be a phenomenal waste of time and effort. That is not what we're doing. The process brings the community along with us as we develop this design. I have no yeah in my mind when you see this project next time it will have community support, because they will be involved in the development of the sign, in the way it looks and sounds.

[10:21:10]

>> A p zoning is in effect giving a nod to this particular use for this site, even if you can't bring in the sound to a point where it works well for the neighbors around it.

>> I think a vote for p zoning today is to acknowledge the fact that the property is under the control of austin and austin energy. It is moot to the point of what we will do with the property at this time.

>> Tovo: I take your point. Thank you.

>> Mayor leffingwell: Commissioner morrison.

>> Morrison: Has this been on the books as belonging to austin energy for a long, long time?

>> I'm not able to answer that. That would be a sonny poole.

>> Morrison: Ok.

>> Council, minutes will reflect, I think it was june, 2012, when the garage issue was determined not to be feasible. The council minutes dictated that y'all agreed this was a good site, we can read that for you. We set the price and moved forward. We've own it about 18 months something along that line for austin energy's asset. We, austin energy have owned it about 18 months.

>> Morrison: I'm confused about this, who did you buy it from?

>> Yes, ma'am, I do. I happen to have that document in front of me. This property transferred from missouri pacific railroad to the city of austin. But I can give you documents. It was in 2003, it transferred from missouri pacific to the city of austin. In 2007, when the buoy street right-of-way exchange happened, that is when the configuration of the crescent became what it looks like today. And on the council action of 2012, that's when the city council designated it to be purchased by austin energy. We finalized it from egsr to oe on june 17 of 2013.

[10:23:45]

>> Morrison: I'm looking at the june 7, 2012. I see mr. Evans in the audience. He may be able to help me.

June 7, 2012. I don't see any specific action that council took for this to belong to austin energy. It may well have nothing to do with the zoning. The reason I look to it because I thought we had declined this as a parking structure because that wouldn't work. Did we take a specific action or is it buried in the work?

>> Fred evans. A series of actions taken on that date, including master agreement. One was to authorize the city's investment, around the parking garage structure, recognizing we had the crescent site to be infeasible for the supplemental parking. What was noted as part of that time as the funding parking and the sale of the crescent, at 1.2 million to be put against the cost of the parking garage to reduce our debt service.

>> Morrison: I see. That is how it got on to austin energy's books because they actually took money -- we didn't have an item but says turn it into the austin energy building. That is built into the financing of it?

>> In the fiscal note it got into the details of the transaction.

>> Morrison: One more question. You have your eye on the whole seaholm, you know that whole quadrant. Are you comfortable that this is the right thing to do with this piece of property?

>> The short answer, yes. The reason for that is austin energy has shown a great willingness to sit down with the most impacted neighbor is the gables property immediately to the west. And we have had a series of meetings with jenny rebrand, with gables, they're listening carefully to the concerns and questions that have been expressed and have responded to them adequately in that they're not in opposition to the plant at this time. Seaholm developer we're working with is cognizant of the plant. The process we will go through from this point forward, I'm confident we will come up with a design solution similar to

-- maybe not exactly like the design solution like we did near the convention center where we respond to the aesthetic or acoustic issues.

[10:26:41]

>> Morrison: That is not really the question I asked. Really, if you would do anything with this property, would you use it for ae infrastructure?

>> It is as very close to an undevelopable remnant. You saw the configuration. 60 feet wide, street frontage, dead ends at a private drive. It is proving

-- geometry is proving very feasible even after a constructed

--

>> morrison: I'm comfortable going forward with the zoning today, especially knowing there is really nothing else to do with the property. I sure hope that the residents will let council know if they feel like they're not being heard and all during the process. But I know they have gone through it before. It's not been easy, but they've worked hard on it. I'm optimistic.

>> Mayor leffingwell: All those in favor say aye. Opposed, no. Councilmember tovo. It passes with councilmember riley voting no special .

>> This is number 33 c 14, 2013-0040. Not objecting to down zoning to sf 4a np.

[10:28:45]

>> Can I stop you for a minute. Items 36 and 37 are scheduled to be postponed at the time certain of 4:00 p.M. Item 37 until february 27, 2014. And item 36 until march 6, 2014. If we can go ahead, there are folks signed up and they might want to leave.

>> Ok.

>> Mayor leffingwell: I entertain a motion for those postponements. All those in favor say aye, opposed, no. Passes on a vote of 7-0. Sorry for the interrupt. Hope you didn't lose your train of thought.

>> Staff recommended to terminate the covenant. The police commission disagreed and recommended to deny the staff recommendation and keep the covenant in place. The property is located in the go valley area. The property as zoned today would actually allow for the use that they have requested, which is a townhouse condominium use on the property. Property already has certain restrictions that if it was developed with an office or professional office cannot exceed 5,000 square feet. There are numerous commercial or industrial type uses that are prohibited on the property. To the north is sf 3 zoning undeveloped and also has residents and religious symbol uses. To the south, the residences and plant nursery. To the east are residences and religious assembly use. To the west is the acc campus. And zone p public, and sf 3 and mf 3 zoning on the property. The applicant's agent, mr. Avila is here this evening, and I believe you have four or five.

[10:31:10]

>> Mayor leffingwell: Numerous.

>> Speakers from the neighborhood to address this item as well. [One moment please for change in captioners] where these covenants exist in the past. I know the law department generally has advised us not to

-- not to enter into these ties of covenants because properties change and times change. They may become less relevant. This certainly happened on east 11th street, I think we had a situation where we had a property owner that I think was maybe the third property owner that came in and wanted to redevelop the property with pretty much what you see on the south side of east 11th street, somewhat prohibited by the covenant that was done years before that said this property shall remain in the certain state. If it changes the property owner will not object to the roll back. The property owner did follow the -- the case after the council suggested down zoning the property. It was brought forward. The law department advised us that the property owners' right does stand to petition the down zoning of the property. Eventually that council from

-- billy, you may have been around at that time, I'm not sure. Was that zoning was denied and they pursued the development of the property under the current zoning that existed.

[10:33:42]

>> Spelman: So the short answer is you don't know. [Laughter]. But just judging from the list, it must be a very restrictive list of whatever is left over. Whoever prepared this list was awesomely comprehensive. I haven't counted but I know there's dozens and dozens of prohibited uses.

>> As the speakers come forward, councilmember, jerry and I will take a look and see if we can give a

short list of what can be developed.

>> Spelman: I bet it's very short. Thank you very much, I appreciate that.

>> Mayor Leffingwell: We will hear from the applicant. Are you

-- are you paul saustrup? Are you paul?

>> Good afternoon, mayor.

>> Mayor Leffingwell: Excuse me. Are you paul? Excuse me? Are you paul saustrup?

>> They are right there.

>> [Indiscernible]

>> Mayor Leffingwell: Who is speaking for the applicant on this?

>> I am, hector avila.

>> Hector, avila. Okay. You've got

--

>> I won't take too many minutes.

>> Mayor Leffingwell: I'm

-- I'm not seeing you signed up wanting to speak is the problem.

>> I'm the applicant. Was I supposed to sign up?

>> Mayor Leffingwell: You have five minutes. Go ahead.

>> Yeah. Good afternoon, mayor and mayor pro tem and city council. My name is hector avila. When I started this process we went to staff, asked them if we could terminate the restrictive covenant and they said yeah, we can recommend it. So then they advi me to contact danielle yanez at govalle. They showed me two entry points with 47 single family houses that are driveways. Not a public road. And they said, well, talk to karl [indiscernible] about doing a one entry point, karl rand would be the fire department. And we got a letter from him, so we changed it, the first time we showed it to them we were just going to give them 10% affordable housing at 80% amfi. And they said, well, 10% is nothing nowadays, so we

-- I talked to the builder and we came out with 51 residents at 15% affordable houses, the second meeting, but dating like that, so here we are. What

-- what the reason that we don't want to do the sf 4 a is that sf 4 a requires a public road. This way if we don't do the sf 4 a, we just do a driveway, it will be maintained by homeowners, if we do a sf 4 a the city of austin will adopt a roadway that they have to maintain, which we prefer doing a driveway, a 27.5 feet wide driveway. We'll accommodate the visitors so the houses on the side of the road and we'll just leave one fire lane open for the fire trucks. Or the emergencies. And that's my presentation.

[10:37:08]

>> Mayor Leffingwell: Any questions for the applicant? Councilmember spelman.

>> Spelman: I notice, sir, on your plot plan, a, b, c, d, e, could you illuminate for us what those things mean?

>> Just the units with the

-- with the little driveways and their garages.

>> Spelman: Is there a distinction between the a's and the b's?

>> Here's the builder. I have the builder with me.

>> Spelman: Okay.

>> Good afternoon, councilmembers, my name is kevin smith, to answer your question, there is a distinction between the sizes of the homes. Designated by letters, a, b, c and d. At this point in time the designs of the homes is not set in stone, but there is a range that those represent.

>> Spelman: Could you give me a rough sense of the range, smallest to largest, how many bedrooms, that sort of a thing?

>> The smallest home is anticipated to be around a thousand square feet, the largest would be in the 1600, maybe 1700 square foot range. This development is going to be predominantly three and four bedroom homes. There will be some two bedroom homes. This is a development that is being built with families in mind.

>> Spelman: Okay. Mostly three and four bedrooms, probably lots of families with kids.

>> Yes, sir.

>> Spelman: Thank you, sir.

>> Mayor Leffingwell: Okay. Councilmember riley?

>> Riley: I have a question for the applicant's agent. I want to make sure that I understood the rationale for wanting something other than 4 a. You said it's really because you don't want to have

-- [multiple voices]

-- you don't want a public road.

>> Yes, sir.

>> Riley: Help me understand why a private road is better from your perspective as a public road.

>> The engineering and all of that, you would have to go through a preliminary subdivision and then a final subdivision and then you would have to do a lot of more engineering on that.

[10:39:13]

>> Riley: Just a matter of doing the engineering on the road?

>> And another thing, the lady that lives at the bottom of the

-- of

-- where we could get the road in, the

-- the road would really affect her bedroom. When we went to the first meeting, she said that she lived right there, annie.

>> I can point to her house.

>> [Indiscernible].

>> Riley: Sir, could I ask you to speak in microphone?

>> Her private road would be this arm, because that's the only 50-foot widths that we have there, the other one is 49-point something, you can't put a public road through them. Annie lives right there where the pin is at. When we were at the meeting she didn't want a public road lighting up her bedroom. We said we'll go talk to the fire department and see if you can get a one entry driveway in. We got that approved through karl rand at the city.

>> Riley: If you proceeded with a private road with the zoning you're requesting, would you expect that would be a gated private road or would it be open to the public?

>> If we go to sf 4 we would have to build a bigger road on the arm that we have. If we terminate the

restrictive covenant we would go a private drive owned by the homeowners association and they will maintain it.

>> If you rolled back to sf 4 a, you would still have a private road?

>> No, sir. We'll have a public road.

>> Riley: So it would be a public road?

>> And it will be dedicated to the city of austin.

>> Riley: If we repealed the restrictive covenant and you proceed with the development that you would like to do, that includes a private road, do you expect that there would be gates on that road?

[10:41:19]

>> Sir?

>> Riley: Would there be gates on the road?

>> No, sir, we wouldn't gate it.

>> Riley: It would still be accessible to the public.

>> Yeah. People will go in and come out. Children can go out to

--

>> Riley: Still open to the public, just maintained at private expense.

>> Uh-huh.

>> Riley: Okay, thanks. Paul saustrup?

>> Mayor Leffingwell: Saustrup? You have several people donating time to you, sasha saustrup raise your hand if you're here. Anna bradley? Anna bradley? I don't see her hand. Steven shellcross. Okay. Patty cater. You have up to 12 minutes.

>> Thank you, mayor, mayor pro tem and councilmembers. Thank you for the opportunity to speak today. About a matter that is important in my neighborhood. My name is paul saustrup, I'm a fifth generation native austinite. I live on tillery street with my wife and two school aged children and I'm going to continue to live on tillery street. We live in and support the govalle johnston terrace neighborhood. I'm here to request the removal of a restrictive covenant from a tract that I own on tillery street. In 2002, I participated in the neighborhood planning meetings at brook elementary school, city staff that was there recommended cs-mu zoning to my property. And then attached the existing restrictive covenant to my property. The covenant was presented to me late in this multi-week process. We would go back to the school, a couple of weeks later there would be another meeting. As I recall, it was presented to me as the only option to continue my usage as an urban farm known as ted's trees. Ted's trees and the lopez family have been a vital part of my neighborhood for generations. I certainly did not want to impede their ability to continue to provide jobs in my neighborhood. I did sign the restrictive covenant, it was presented to me as the path of least resistance and I took it. Over the next 12 years, following the restrictive covenant being put in place, several city staff members have repeatedly informed me that my usage as a farm would have been allowed under my cs-mu zoning and it's unclear why a restrictive covenant was put in place. Staff changes over time make it hard to find out by whom or why it was requested and recently I had an opportunity to view what councilmember spelman viewed and i, too, was left wondering what is allowed because so much was disallowed. My tract is walking distance to many necessities and joys of community life, grocery stores, banking, bike

trails, public transit, schools, libraries, parks and much more. This proposed development includes much needed affordable housing in 78702. It will provide a series of single family two, three and four bedroom residences, this is not a project of apartment-style condo structures. This plan fits with the existing govalle johnson terrace neighborhood plan and will attract families, not first time buyers looking to trade up. Families whose children will attend the local schools with my children. Families who will support the neighborhood as my family supports it. Our proposed plan allows some 15% affordable housing and does so without the use of any bond funds or government subsidies. 15% of the homes will be starting in the mid 100s, and the remaining 85% of the homes on the project would be three and four bedroom homes in the 200 to \$300,000 range. This is in a climate where many tear downs in my neighborhood are going for roughly that amount. I have said no many times to other projects in the past. Recent opposition to urban farms have made me fear for my ability to be a steward to my property. Now that I'm proposing smart growth, the same people that opposed the urban farms now oppose my smart development, if you will. I want the use of my land to set a precedent for the type of family oriented development that fits into our neighborhood so that other tracts will proceed in a similar way. Rather than just having a handful of very expensive homes, I would like to be able to provide an alternate range, alternate price range, if you will. I've brought with me the signatures and statements of property owners and business owners in my neighborhood who also share my opinion, envision for the best usage of my tract and the smart growth for my neighborhood. I've got these letters with signatures that I've prepared one for each of you. I'm not going to bore you reading the whole letter, I'm going to provide you with a copy of it, along with the signatures. But I would like to

-- to ride you

-- read you some quick snippets, if you would allow me. I'm a

-- I'm a resident, property owner in central east austin, 78702, I'm in favor of removing the zoning restrictions on the 3.5-acre tract at 1120 tillery street to allow for development of a single family, freestanding condominium development on this property. I think development of this style will fit nicely in the neighborhood. I've not been contacted by the govalle johnson terrace neighborhood planning group to give my opinion in this matter. I understand the planning group opposes the removal of the restrictions which would allow the development of residential freestanding condominiums on this tract. Furthermore I understood this group opposes the development of this type of tract and I do not agree with the neighborhood group's opposition to this issue. Please consider my signature below as an area resident in support of allowing this type of development. I have one of these packets for each of you. I've got another letter here that I shared with business owners in my neighborhood. It starts out I'm a business owner and/or commercial property owner in central east austin, 78702. The neighborhood has seen many changes over the past decade, some good and some bad. I would love to see some development that expands the potential for home ownership and a broader range of buyers than what currently seems to be available. I believe that this development and others like it will fit in and enhance the neighborhood. Then I have a third and final letter here that I'm going to share with you. It

-- it was signed by real estate professionals who live in or work in the central east austin area. They go on to say in my profession I encounter many buyers who wish to purchase in this neighborhood but simply cannot afford the property. In most cases these are buyers who make just over the threshold to be able to qualify for the city of austin's affordable housing program. This circumstance makes for a significant gap in the socio-economic standing for our central east austin residence. Instead of

maintaining the diversity of this area of town we have been known for many years, we are not currently losing everything in an area where a wide range of earners can afford to live. If anybody has any questions for me, I would be happy to answer them for you to the best of my ability.

[10:49:08]

>> Mayor Leffingwell: Thank you. Next speaker is Kevin Smith.

>> Well, my name is Kevin Smith. The builder on the project development. A couple of points that I want to

-- to reiterate on this, that Paul and Hector both touched on has to do with the affordability. And also to further answer questions that

-- that Councilmember Riley had. If the

-- if the restrictive covenant is not terminated, those will roll back to SF 4A and will provide for a 26 single family lots to be developed. 26 homes. What we are proposing has more density than this. Yet it still has density of .5 to 1 far for the floor to area ratio as opposed to the two to one allowed under the existing zoning. The impact from an affordability standpoint is tremendous. If we are allowed to build additional units the price point of each of those units is going to be overall at a lower price point. Significantly lower price point than if we are required to build 26 much larger units to make the project feasible. And the comment has been made about the type of development. And the type of transient nature that various developments have. We are of the opinion that home ownership actually is good for the overall neighborhood. Good for the community. And it's not the type of the development that makes for transient in nature, rather it's home ownership versus rental neighborhoods. This neighborhood is being developed. These homes will be sold. It is not a rental community. Thank you.

[10:51:14]

>> Mayor Leffingwell: Those speakers who are against, starting with Angelica Noella.

>> My family has two homes in the affected area. I will let you know I am a community development commissioner with the City of Austin Community Development Commission. There is a need for affordable housing but we work closely with the health and human services, when you provide affordable housing for individuals or any housing you have to make sure that you are going to take into consideration the health needs of the families that are living there. If these are going to be made family homes, where are these children going to play when you have such a dense environment with housing in it? I think that single family homes versus condos is a much better option. Right now we see throughout the City of Austin we are in dire need of housing, period, as well as affordable housing. When you have an ability to take a tract of land and revert it back to single family use that would allow someone to have an actual home versus a condo, you give that family the ability to have a yard, barbecues, picnics, something a lot of families aren't able to do right now because they are mashed into this little tin can of density the city has been

-- tin can of density the city has been pushing forward. I have two family homes in the neighborhood, we have large tracts of land, we value those. I have seen the City of Austin clinking in size when it comes to land where homes are being built. I think we really need to think about where we're sending these

families to live. 250,000 homes. I'm sorry, the individuals I deal with in east austin that's not affordable. It's not something that's in their range. We want to make sure that we are providing something in the neighborhood that people can afford. I ask you please take into consideration when you review this zoning case, you make your decision, please have it rolled back to a zoning that is going to be applicable, not only to have someone have fair housing, safe housing, but a healthy environment as well. Thank you.

[10:53:23]

>> Mayor Leffingwell: Suing sues. Susana almanza, susana almanza. Daniel yanez?

>> Good afternoon, mayor and council, my name is daniel yanez, I coordinate the go video johnson neighborhood contact team. This is not necessarily about housing. This is about a deal, ted's trees was in operation at the time we made the restrictive covenant, we made the restrictive covenant so that ted's trees could continue their business. They agreed, this yeah agreed and so all that's happening is that we're honoring that agreement. The planning commission cited with us -- sided with us, part of that is because we don't want to set precedent of a developer coming into the neighborhood, agreeing on something and later on changing their mind. We're there for the long haul. This neighborhood, this particular area, is a lot of single family zoning. The letter that I just distributed to you is from the guadalupe development neighborhood development corporation, gndc. They have an adjacent tract, 4.5 acres and the density there that they have is providing affordable housing as well. And so really what we are looking for is just to honor the agreement that they made originally. Because this was single family zoning before. And we want to return it to that. And it also provides a variety of income levels. Like I said, gndc is building a tremendous project just adjacent to this, 80, 90 something plus houses, all affordable houses, all for mitigating the displacement. So this particular project is -- is not doing anything adverse to the community. We just want them to honor the agreement that they made in order for us to allow ted's trees to continue their business when they had it. And now they're, you know, letting go of it, so we want it to be back to single family. If there's any questions, I would love to answer them.

[10:55:40]

>> Mayor Leffingwell: Councilmember morrison?

>> Morrison: Thank you, hello, daniel. We have in backup a letter from gndc, I guess sent to actually the planning commission. He suggested an alternative and I'm going to tell you what it is. And then mark rogers said, I of course would only recommend you support this alternative if the govalle johnson terrace contact team supports it. That's why I want to throw it out here. I don't know if you all talked about it. He said what about amending the rc to add sf 4 b as an allowable rezoning category, that way they could redevelop it, rezone it to sf 4 b or maybe might not ne rezoned if it's the fmu without having to go through the sf 4 a subdivision process, in fact it would allow 10 to 12 more dwelling units -- have you all discussed that?

>> Yes, we did. The letter that you have is in between the two meetings that the contact team had with the applicant.

>> Morrison: Right.

>> We did discuss that. And it was a possibility but actually staff said it couldn't be done.

>> Morrison: Okay. I'll ask staff when we get a minute then.

>> Yeah, you should ask them and then ask me again. Because we did discuss this. But the -- but the thrust of the contact team was that we made a deal. And we want that deal to be honored in our neighborhood.

>> Morrison: Right.

>> They participated in the neighborhood plan, they agreed to it. There are other -- other entities in our neighborhood where their restrictive covenant came due and -- and they honored it. So we expect them to do the same.

>> So I'm going to ask scott that question, but if they were to say yes and in fact there was a way to work it out to sf 4 b, would you still be against it just because it's not sf 4 a.

>> At this point I have to hold the position that the committee made as a joint decision.

[10:57:46]

>> But you were doing that based on staff saying it wasn't even possible?

>> We considered it. We considered what you are saying. We went around, around, around with it. In the end we decided it was not a viable option.

>> Morrison: Okay. Mr. Guernsey could you talk to that a little bit, please? The suggestion was add sf 4 b and then to the restrictive covenant and then I guess perhaps go through a zoning change, but at least you wouldn't have to subdivide.

>> As I recall, sf 4 b is a rather unusual category. We only have one other tract.

>> Morrison: Right.

>> I need to get a copy of the book to probably answer the question, but I remember there was something about

-- about you couldn't down zone, maybe you could only upzone. So it might actually, you might have to do two zoning changes to get to that. So it's not as simple as one would think. Under that category. But I'll confirm that.

>> Morrison: That's interesting, you can't down zone.

>> I remember it was

-- I think it was in

-- I'm not sure if it was bouldin neighborhood or travis heights neighborhood where we had someone who really wanted to do sf 4 b and there was a

-- there was an unusual circumstance because we never had a zoning change up until maybe two or three years ago to sf 4 b. I'll check on that.

>> Morrison: If you could check on that and even if it does

-- even if it's strange and you would have to down zone and then upzone, that doesn't preclude that from happening?

>> No. It would not

-- zoning is not an impossibility. It's just not always possible. [Laughter].

>> Morrison: Got it.

>> Mayor Leffingwell: Council, if there's no objection, I would like to pause for just a minute to welcome some special guests to the council chambers. Would you all please stand up. These are visitors from china.

[ Applause ] so I think some of you have never been to the united states before, so welcome to the united states, welcome specifically to austin, texas. That's kind of my purview. Not the united states. I have signed documents granting all of you honorary citizenship papers, you will be signed up with that in just a few minutes. For those of you who don't know, it's the largest province in the people's republic of china, located near our sister city. It's widely known as the home of the panda, also home to many of china's industrial centers. These chinese businessmen and women will be visiting austin for several days with members of our local business community and local elected officials and they will be providing briefings about the many resources and advantages of their province and exploring business opportunities here in austin. So again welcome, we wish you a very enjoyable visit here in austin, texas, and as I always say, be sure to spend lots of money.

[11:01:03]

[Laughter]. Thank you. All right. We will go on with our meeting, I think we're up for rebuttal from the applicant hector avila. Hector, you have three minutes.

>> I'm going to let the owner rebuttal since he did that restrictive covenant.

>> Sure, go ahead.

>> I was at the meetings in 2002 and participated to the fullest of my ability. One of the speakers asked where the children would play. There's a really large park one lot over. Between the library, there's a library, a park, the stalled guadalupe, saldana track and then my tract. There's a really large park with several programs including soccer and all types of little league programs. I want to say it's less than a block away. Mr. Yanez is on record as saying that the govalle neighborhood association gave me a gift. I think we're still waiting for city staff to come up with the list of those gifts. By allowing ted's trees to continue. I want you to know that

-- that I bought my property from paul myier, the property has been known as moyer farms, before that a documented history going back 100 years as a farm. As I mentioned in my earlier notes, I think no matter what zoning staff recommended, which they chose to recommend cs-mu, no matter what zoning they recommended, it's my understanding I probably would have been grandfathered since I've been an urban farm for 100 years. Someone else brought the option of sf 4 b and the planning commission nixed that option. They said that was not a viable option if for our property. I think

-- for our property. I think daniel agreed with me on that subject. Someone else brought up the proximity of available affordable housing with guadalupe saldana project being so close, it's the tract next door. And I've seen that over there but I'm not seeing much progress right now. It's my understanding that they are waiting on city bonds or other government subsidies, so I don't really see those homes being available any time soon; whereas our option presents affordable housing with an aspect of affordable to the people in the 80% afmi structure. We're going to do it without any stalling, waiting for bonds or subsidies.

[11:03:47]

>> Mayor Leffingwell: Councilmember martinez?

>> Martinez:, PAUL, I JUST Want to ask you one question. Because the answer to this question precludes any further conversation. But I would want to pursue that conversation depending on your answer. Would you be interested in selling that piece of property to neighborhood housing community development?

>> If I was not already prior committed, I mean, I would consider any option. But I have a prior commitment that I have to honor.

>> Martinez: In terms of a business agreement with a developer?

>> Correct.

>> Martinez: Okay. I just feel like

-- I think that we could make some progress and lift the restrictive covenant with some right components to this. And right now what you have I don't believe are the right components. I think your project is too dense. And I think there are projects going on next door that I think could be a good match for this tract of land. So without that ability to even have that conversation, I just

-- I don't see one, how we can get there and, two, how I could be supportive of lifting the restrictive covenant if.

>> I understand.

>> Mayor Leffingwell: Thank you, I will entertain a motion on item 31.

>> Martinez: Mayor, I move approval of the planning commission recommendation.

>> Cole: I will second.

>> Mayor Leffingwell: Councilmember martinez moves to close the public hearing and approve the planning commission recommendation. Mayor pro tem cole seconds.

>> Cole: I have a quick question for staff. Greg, can you give us a brief summary of what happened at the planning commission?

>> I wasn't actually present at the hearing, I don't know, jerry, if you know. I know they pretty much agreed with the neighborhood's position on this and I think one was offered as a deal, it was a deal I think that's

-- that's kind of what happened at the meeting.

[11:05:48]

>> Cole: Okay.

>> I can answer the sf 4 b question, if you would like. As I said before, I'm only aware of one tract in almost the last 25 years that might have been zoned sf 4 b, but the code as it reads, under sf 4 b speaks to single family residence, condominium site, so it's an sf 4 b designation for moderate density single family on sites surrounded by existing structures. And sf 4 b district designation may only be applied to use proposed location if the existing use of that location is designated as an urban family or sf 5 or less restrictive district. So this would be an sf 5 or less restricted district so I think that you could down zone to that category. However, this isn't a zoning case, this is only a restrictive covenant amendment. And the owner would have the ability to file a petition against the rezoning. The question that was raised by councilmember spelman, it would appear that the property could be used for administrative office,

professional office, plant, nursery, single family residential. And religious assembly. And condominium.  
But the

-- but the limitations on the property, yes, are very severe. It also listed a prohibition of public school, primary and secondary, which I do not believe that we could enforce. Those would be additional uses if a school, if a charter school or a school district, independent school district like aisd wanted to purchase the property and use that property.

>> Morrison: Mayor?

[11:07:49]

>> Mayor Leffingwell: Councilmember morrison, I'm going to have to leave the dais, I will be back for live music and proclamations.

>> Morrison: Thank you. Greg, I just have one more question. And it's

-- I can't help but ask this question. The summary staff recommendation, summary staff recommendation simply says due to the significant number of limitations attached to the current zoning, staff supports termination of the restrictive covenant. Are you

-- is that a general statement? I mean, to me I'm just really surprised to read that as a staff recommendation. Because they were

-- they were put there for a purpose, it wasn't just oh, we want to just knock out anything that has, you know, any other use.

>> Well, as I said, I think there were like five viable uses that are on this property. And it's highly unusual to have a district of this type, with this number of restrictions that would be allowed. A lesser district certainly could have been put on this property that may allow an administrative office, a professional office without

-- like an no district, a no-mu district could

--

>> Morrison: Okay. I have to jump in, I think this is a restrictive covenant and it was put there on purpose and so I

-- I just don't know what planning, why you should go to say that there's planning theory that suggests that we have too many restrictions when the clear intent was to put those restrictions on there.

>> I understand that, councilmember. You do have some use changes that have occurred in that area through time. They will continue to occur. And I think we just need to take a look at those things that have occurred nearby.

>> Morrison: Thank you.

>> Cole: Okay. We have a motion on the floor. A motion and a second, all those if favor say aye.

>> Aye. That passes unanimously on a vote of

--

[11:09:49]

>> no it does not.

>> I was voting no.

>> Cole: Councilmember spelman is voting no. Mayor leffingwell is off the dais, that passes a vote of 5 to 1 with mayor leffingwell off the dais.

>> Okay, colleagues, we will take up next item no.33. We have several speakers.

>> Thank you, mayor pro tem and council, item 33 is 33.

-- This is the zoning change associated with case C814-88-0001.10 - Canyons @ Rob Roy Rezoning - Conduct a public hearing and approve an ordinance amending City Code Chapter 25-2 by rezoning property locally known as 800 North Capital of Texas Highway (Bee Creek Watershed) from planned unit development (pud) district zoning to planned unit development (pud) district zoning, to change a condition of zoning. Staff It is a 16.282-acre tract of land. The proposal is to amend the planned unit development associated with this property approved back in 1989 to recognize a change in the land use on the property for a portion of the property to go from office to a multi-family. The planning commission's or the zoning and platting commission's recommendation was to approve the staff recommendation for the change to the land plan. However, that the number of units be further limited to 225 units. It was approved on a vote of 4-0. But that

-- but that

-- that was the bare number minimum that was needed by the commission to move forward. I'll point out that there is a valid petition that it currently exists on the property today. It stands at about 28.2%. The properties that surround this property, p.U.D. Zoning to the north, single family uses to the south, zoned lo and office complex to the east, sf 2 and undeveloped, and to the west sf 2 undeveloped with -- and developed with single family residences. The property is located along hill country roadway. They would be subject to certain provisions of the hill country roadway ordinance. Far would not be one of them because it does not apply to a residential use, it only applies to non-residential uses. But those items that you would normally find associated with hill country that might be natural high or height limitations, those would apply to this property. I believe the applicant's representative has a presentation for you. As mentioned earlier, there are numerous speakers that would like to address you this evening regarding this case.

[11:12:43]

>> Cole: Okay. We'll have the applicant's presentation.

>> Mayor pro tem, members of the council, my name is richard suttler, I'm here on behalf of the applicant. In light of your busy evening tonight, what you have coming up, I'll be very brief. 16-acre and some change tract. It accesses only loop 360. There's a median break. It's currently under a p.U.D. Shown as an office use. We are asking you to see if you think that a multi-family use would be promote along 360

-- appropriate along 360 on the west side of town. It is recommended to you by staff, it was recommended to you by the planning commission. The opposition we have met with them since this summer, actually jim gallegos my client has met with them, we have met with them a couple of times. We have come to an impasse as to whether or not multi-family is an appropriate use on this property. We would like to get an indication whether you think it's appropriate and whether it's appropriate to spread the diversity of this type of housing in various parts of our town including this one. With that I will close and be happy to answer any questions that you might have.

>> Questions, colleagues? Thank you, mr. Suttle. Our first speaker is frank king. Is jan king also present? Jan, there you are. Okay, you have up to six minutes, mr. King.

>> Thank you and good afternoon. Council, I'm frank king, I moved here in 1982 with ibm, I'm an engineer. And we bought in rob roy in 1992. When we bought we examined the area and wanted to understand what could be built around us. We found out about the p.U.D. Developed in 199. We found out about the restrictive covenant and how it's impossible to not sort of talk about these things together and the both because the p.U.D. And the restrictive covenant said an 88,000 square foot office building is what we could expect down canyon from us and we were okay with that and have been expecting that. In 2001 the developer submitted to the city a site plan to build an office. An 88,000 square foot office there. We formed a neighborhood committee, worked with that developer. On things like signage and lighting and external materials and so forth. It was a good cooperation, unfortunately the office didn't get built at that time but we're certainly fine with that use of that property. It's an appropriate use and a use that's been committed to the citizens of rob roy since 1989. In 2007, our neighborhood experienced a problem, a significant traffic backup at bee caves and 360. So bad that our neighborhood became a cut through path, people would turn right on pascal, left on saint stephens, it was becoming a traffic nightmare because of the difficulty of people turning at the intersection of 360 and bee caves. We're an independent neighborhood. We had to solve the problem ourselves so we did. We measured the traffic flow and found that people were going quite fast and 5400 cars per day were cutting through our neighborhood. So we decided to solve this problem by taking over maintenance of our expense. We put gates on either end. Certainly made our neighborhoods a lot safer and has cut down on the incredible amount of traffic that we had. So we solved that problem by ourselves. We now have a problem we can't solve. That's why we're today. To talk to you about what happened last fall, a new developer came to us, came to the board and proposed to rezone and build initially 245 units. Now less than that. But still north of 220. He met with the board and said that he would not go forward if the board opposed. The board did a survey, over 90% of the respondents in our neighborhood said they didn't want the land rezone. They were prepared for office, office is what we had come to expect since 1989, we thought that was appropriate. The neighborhood cited four reasons. The first reason they cite the was a reliance that the neighborhood has had since 1989 on the restrictive covenant. You will hear a lot more about that whenever we get to talk about that. But the restrictive covenant fundamentally says that the use of property cannot be changed unless those owners who are immediately adjacent to and actually party to the restrictive covenant approve along with your vote, of course. The second reason was the size of the project. Reason traffic impact. Fourth the reason we have come to understand a lot about recently, the impact on the water pressure system on the fire hydrant. We have 297 homes in our community. We have fire hydrants, you will hear more in a minute about the concern that neighborhoods have about that. Other concerns. As well, school issues, property value issues, but the main four were reliance on the restrictive covenant, the size of the project, the traffic impact and water pressure. It has already been pointed out to you, we did circulate a petition. We have a valid petition a little north of 28%. There are 14 abutters that immediately about the property. Seven signed. Of the seven who didn't sign two are homes, five are commercials. The five commercial are office properties, of course they don't want an office adjacent. But the two that didn't sign one actually signed we have a scanned and not an original, that doesn't count. But seven signed and we have a valid petition. The project has been characterized by staff and by others in this room as a down zoning. And we really don't

see it that way at all. The apartment complex is over 400,000 square feet. What we're expecting and what is in our neighborhood in our other buildings that are in our area are office buildings of a much smaller size. What we're expecting, what we signed up for when we bought our property was an 88,000 square foot office building. And what is being proposed I think is way out of proportion and way out of -- not at all an element of down zoning. The second down zoning point that has been made is traffic. This is a little complex, stick with me for a minute. The city transportation reviewer, when this was brought to the zoning and platting hearing said that the traffic would be 50% less with the apartment complex than the office. 1600 trips a day for the apartment, 3200 trips a day for the office. We scratched our head on that, did an open records request to understand how he arrived at such a conclusion

[11:20:14]

[buzzer sounding]

>> Cole: Your time is up, mr. King?

>> All of my time?

>> My wife's time, too.

>> Yes, your six minutes.

>> Let me finish this one sentence then. What we discovered was that the engineer used the assumption that it was a medical building going to be built. At the same time today on this very same site owned by the very same owner, there is a site plan in front of the city of austin for an office building.

>> Cole: Thank you, mr. King.

>> That one is 900 square feet.

>> Thank you, mr. King.

>> Thank you. Ms. Amy davis.

>> Mayor pro tem?

>> Tovo: May I ask mr. King one very quick question.

>> Thank you.

>> Tovo: We had an opportunity to meet and some of the neighbor's concerns. You mentioned in passing school issues, would you mind taking one or two sentences to elaborate on what the concern was there?

>> Not having school-aged children that was a long time ago. I don't know exactly the names of the schools. But in our neighborhood there are elementary schools and then people go to the eanes school district. The concern that neighborhoods have expressed is that if suddenly we have, you know, 200 plus apartments, many two and three bedroom units, there are going to be a lot more young kids in the neighborhood, that's going to cause families to have their young kids in one school, their older children, in middle school in a different school. That's a difficulty for people that have to drive their kids to and from. So

-- so that was the

-- the height of that concern.

>> Tovo: Thank you for the clarification.

>> The next speaker is amy davis she was going to speak about the restrictive covenant. I believe she can donate her time to me.

>> Cole: Where are you amy? Do you wish to donate your time to mr. King?

>> Sure.

>> Cole: Okay, you have three more minutes.

>> Thank you.

>> Where I was the traffic engineer said 3200 trips for office, 1600 trips for the apartment. But if the office is used for administrative purposes, that same engineer said it would be 968 trips. There's a big medical complex, as you know, down the road from us on bee caves. So we don't have to speculate how this property is going to be used. If it's built as an office, it's not going to be a medical site. It's going to be an administrative office. Instead of cutting traffic as was described at the zoning and platting hearing by the transcription reviewer, this is going to almost double the traffic on 360. Again, not an element of down zoning. So what we're seeing is a very large increase in size, a lot more traffic on 360, and the other issue is the impact on our pressure. Whatever time I have left and whatever time has been donated, herb harris, the president of our rob roy homeowner association board is going to address our concerns about what this does to our water supply. Thank you.

[11:23:18]

>> Cole: Thank you, mr. King, the next speaker and you have just six minutes, mr. John joseph, who also kelly wright has downtowned time to you.

>> I will have her speak up

--

>> Cole: We are breaking at exactly 5:30 for live music and proclamations. Since you are representing some of the homeowners, would you prefer to start after live music and proclamations.

>> Yes, ma'am, thank you.

>> Cole: All right. At this time, I will

-- I will break the council meeting of the city council for live music and proclamations.

>> Not on this case, I have another case that you might want to dispossess of, number 39, the planning commission gave us homework we have not been able to finish until tonight. I know that you have some speakers here, I just want to let you know that the applicant has no problem if you want to push that off, your speakers that are signed up might want to, I don't know.

>> Cole: Are you asking for a postponement on 39?

>> I don't really want to burn my one by right, but we wouldn't object to one if there was one.

>> Cole: Okay. We have adjourned the meeting of the austin city council. And for live music and proclamations. So that discuss was not a part of the meeting.

[11:25:35]

>> Cole: I want to clarify that we recessed this meeting of the austin city council and did not adjourn, you will see you after live music and proclamations. Test test test

[ 🎵 music playing 🎵 ]

[ music playing ] january 30, 2014 austin city council meeting in in excellent early training for a accomplished songwriter. Her second album, late bloomer, was released in june 2013. Her emotional and fiery tunes and great melodies are favorites for a variety of music enthusiasts. Her original songs continue to reflect an emotional honesty appealing to all listeners. Please help me welcome sheryl murdoch.

[11:29:45]

[Applause]

[ 🎵 music playing 🎵 ]

[11:32:20]

[applause]

>> cole: Thank you. I have a couple of questions for you. How can we find you on-line?

>> You can find me at sheryl murdoch.Com c-h-e-r-g-y-l.Com.

>> Where can we buy your music?

>> At waterloo records, on itunes or in

--

[11:34:20]

>> cole: Waterloo records, okay. Where can we see you play?

>> We're actually playing this evening for an austin social event for [inaudible] it's on our web site, you can go there and find it.

>> Cole: Okay. Well, I have a proclamation for you. The city of austin, texas is blessed with many creative musicians whose talent extends to virtually every musical genre and our music scene thrives because austin audiences support good music produced by legends, our local favorites and newcomers alike, and whereas we are pleased to showcase and support our local artists, now, therefore, i, lee leffingwell, mayor of the live music capital do hereby proclaim january 30, 2014 as sheryl murdoch day. [Applause]  
[cheers and applause]

[11:36:21]

>> mayor leffingwell: Good evening, we have a very special proclamation for you and for the rest of austin tonight. I want to introduce myself, I'm austin mayor lee leffingwell, and, you know, as a native austinite and a ut alum, I am very proud of the university of texas. Truly it's a university that our football team can be proud of. [Laughter] , you know, I was in college around the same time that darrell royal began his legendary coaching career, so I've seen a few coaches come and go, but there's something special about mack brown, the way he was able to unify us and inspire us, the way he was able to lead us. He gave us 16 memorable seasons as head coach and brought a national championship back to the university of texas. [Cheers and applause] but there is no team like the browns, mack and sally. Sally has

been there for him all along giving him support and guidance. I'm sure they've had a lot of sleepless nights together worrying about upcoming games and trying to solve tough decisions that might arise both on and off the field, and off the field the browns are just as impressive. They're active community members, championing nonprofit and charity organizations all throughout austin. They have worked tirelessly to help disadvantaged children gain the opportunities they need to succeed, whether through education, finding safe homes or preventing disease, the browns are dedicated to helping children reach their true potential. Recently the wise school of austin named their new building in their honor. [Applause] sally was instrumental in the school's 2003 founding, and whether it's hosting golf tournaments, orchestrating blood drives or participating in other local events, the browns have become an institution in our entire community. Austin is indebted to their service, to their loyalty and their compassion. Thank you both very much for all you've done for the city of austin. Don't forget the eyes of texas are always upon you.

[11:38:54]

[Cheers and applause] as one more testament to the wide-reaching impact the browns have made, I want to introduce ut student body vice president horatio villareal. Horatio, please come on up.

[Applause]

>> hello. My name is horatio villareal and I have the honor and privilege to serve as student body president at the university of texas in austin. I want to thank mayor leffingwell's office for allowing us to present coach brown with this recognition. I want to recognize three individuals who played an incredible role in making this happen. Ruben cardenas and amy and josh clifford who helped me write this legislation. Today the university of texas at austin student government will present mack brown with what we call ar 26 in recognition of mack brown's service to the university of texas at austin. So what exactly does that mean? Ut student government has an incredibly strong track record in passing resolutions and thanking or supporting a personal cause that is has greatly influenced student life in the 40 acres. During our term this year we have passed resolutions such as thanking long time texas senator ray ferb. We have passed resolutions for bill powerless for incredible times at ut system but we're here to recognize what I and countless texans and people across the actual country and world deem one of the best football coaches of all time. Mr. Brown. I grew up watching football as a young boy and I've always had the utmost respect for him as a man of class and integrity and now to be able to see firsthand how much of a role model he has been to the university of texas at a whole. I can't say thank you enough. I want to reflect on most memorable moments on my life that wouldn't have been possible without mack brown. Ricky williams running down the left side of the field to break the ncaa rushing record, but what made it better is it was against nam.

[11:41:08]

[Laughter] fourth and five with the national championship on the line, watching vince young trot down the right side of the field to solidify our national championship. [Applause] or justin tucker's game winning field goal declares the big rivalry with texas a&m and my favorite to this day because I'm old and about to graduate, the most recent one against ou this year. [Applause] absolutely none of these

lifetime memories would have been possible without mack brown. Coach brown has done so much for the city of austin beyond the football field. His mentorship of of the football team and stellar work with the macc jack mconaghy foundation are two examples of the stellar citizenship. Thank you, coach brown.

>> Thank you. Thank you very much. [Applause]

>> mayor leffingwell: I've just been told that ms. Edith royal is with us tonight. Would you stand up, and if you feel like it please come up here with us.

>> Come on, ms. Edith. [Cheers and applause]

>> she's got her orange tennis shoes on. [Laughter]

>> coach brown's influence is far, wide and deep, even reaching 12 blocks north to the state capitol of texas, and I'm very proud to introduce senator kirk watson. As most of you know, former mayor of the city of austin. We're glad to have you here, senator, and I understand you have something also for the coach.

[11:43:20]

>> I do. Thank you very much. Thank you, mayor and sally, ms. Royal, coach. It's my distinct pleasure to get to be here today, and I'm just going to say a very few words. Coach, I think and I hope that you know how much you and sally mean to the people of the state of texas, and I hope you fully appreciate how much you're loved. You have been a deep advocate for higher education. You have been someone who is a mentor to so many and to many of us you're a role model for how you can do what is right and be extremely successful. So I'm honored to get to be here today to present senate proclamation no.95, and I'm not going to go through every one of the whereas's, because as you might guess

--

>> yea! [Laughter]

>> yes, well, two things are conspiring to have a lot of whereas's. One, there's a lot of good things you can say about him, and two, we tend to filibuster in the senate. [Laughter] so that's what happens. Here's what I will do, though. I will just read the end of it. Whereas mack brown has had a profound influence on the lives of countless people, both as a coach and as a community leader, and he is truly deserving of recognition for his outstanding achievements. Now, therefore, be it proclaimed that the senate of the state of texas hereby commends mack brown on his commitment to the university of texas at austin and extends to him best wishes for continuous success in all his endeavors and that a copy of this proclamation be presented to him. Coach, it is indeed a deep honor for me to be able to present this to you and to say thank you and god bless you. [Applause]

[11:45:45]

>> mayor leffingwell: Before I introduce the coach, I've got something I want to share with you. This is very quick, but I heard that sally brown had said this, and I thought it was so good that I want to share it with you.

>> Uh-oh.

>> She compared being a coach's wife to being the wife of a politician, only with an election every week.

[Laughter] [applause] so I have a proclamation, and mine, of course being a city proclamation, is much shorter than the state proclamation. [Laughter] so I'll read it very quickly. Be it known that whereas under the leadership of mack brown and with constant support from sally, mack led the longhorns to 158 wins over 16 seasons and won the 2005 ncaa college football national championship, and whereas at the same time the charitable efforts of mack and sally brown have apostle positively impact both the university of texas at austin and the austin community, and whereas countless children have benefited from the continuing efforts of the browns who have worked tirelessly with helping hands, the rise school of austin, casa and safe place, to provide them with a sound education, safe upbringing and opportunities for growth, and whereas we're pleased to honor mac and sally brown for their years of excitement they provided for longhorn fans and for their wide ranging contributions that have improved life for the citizens of austin. Now, therefore, i, lee leffingwell, mayor of the city of austin, texas, do hereby proclaim january 31, 2014 as mack and sally brown day in austin, texas. [Cheers and applause]

[11:47:52]

>> it's hard to tell a mayor what to do. [Laughter]

>> mayor leffingwell: I responded immediately. [Laughter]

>> mayor leffingwell: Now I'd like to invite coach brown up to say a few words, if you'd like.

>> Thank you, mayor. [Applause] thank you very much. [Applause] we were going to have sally speak but I know you have to go to dinner and she talks way too long. [Laughter] so we decided not to let her come up and speak. First, we're honored that we would be joined by the wife of the best couple in the state of texas and the best football coach in the history of college football, much less texas, ms. Edith royal, so again, edith, thank you for coming. That's wonderful. [Applause] mayor, thank you, sally and I are so honored. We've been trying to stay out of the way and let the new staff move forward, and we're not having public appearances, not talk to go the media. And when the mayor and mr. President and mr. Senator called us we said this is too cool. [Laughter] so it's really nice and we appreciate you doing it very much. I will say that when we got here 16 years ago my great friend the senator, who just happens to be a baylor graduate, he didn't admit it then,. [Laughter] he's talking about it more now but he's doing well. [Laughter] he was the mayor in 1998. We won nine games and they gave us a parade. So what happened since then. [Laughter] it was

-- I said, really? And it was about

-- it was a good parade. It was good. But what I can say is thanks again to the staff, thanks again to these great gentlemen behind us. The city of austin to me is probably, and to sally, I'm speaking for her, and I did say after we got back from the national coaches convention, I did say, "sally, you've done everything I've asked you to do for 21 years. I'm going to be on a choke collar for you for the

-- she says the rest of my life. I said till june.

[11:50:05]

[Laughter] it's not what you say, it's what you hear. So she heard that. And then I got home the first day we hadn't had something to do for 42 years. I said, sweetie, I need some help on the computer, and she said, hey, we need to get something straight right now. [Laughter] she said, for the last 30 years you've

had 20 people waiting on your every little move and they've done everything you wanted them to do. I'm not it. [Laughter] so learn to do the computer yourself. So I'm trying to get self-sufficient here as we go through. But when we look at 16 years of wonderful memories and tremendous friends, it's been a great ride. It's been so much fun. To meet people like

-- I met coach royal. I had not met edith but to be around them while we were here, how many times can you have a husband and wife that won three national championships be consultants? And when I asked coach 16 years ago, I said, will you help me? I'm going to need some help. He said, hell, I'm 72, I don't need a full-time job. And then I said, coach, will you come and speak to my team? And he said I didn't even like speaking to mine. I don't want to speak to yours. When he told me about speaking to the media, he said, hey, the less you say, the less you got to take back. So keep your mouth shut. Don't be talking so much. So I learned so much, and more from learning from those two, they were friends, and they were fun. And we've had so many wonderful friends. John bianco and I had lunch today. Where is john? He ran the sports information for football. We had fun for 16 years. It was like every day at work it was just a bunch of buddies going together to go compete and try to do what was right, as the mayor said, because that was important, try to win all the games, but try to help kids get to a better place in their life. So when I thought about today, and here's the senator saying the great state of texas wants to say thank you, and here's the mayor saying austin wants to say thank you, and here's the president saying the students want to say thank you, how humbling for us because texas has given us a lot more than we've given back. The city of austin has given us so much, so much more than we could possibly give back. And the students, our students have been wonderful, from the pep squads to the spirit groups to

-- we've had

-- we had some of those pep rallies when it was so cold and those kids would be out there screaming, and the rotc groups are driving footballs to the game up at oklahoma to try to beat oklahoma in the touch football game before the game. So our students have been wonderful and it's such a key part of our lives. So as sally and I transition to the next phase of our lives we are

-- we want to be here, we want to be moving forward. We want to be part of texas and make sure that we continue to do our little part of such a great state and a wonderful state. So from sally and myself, thank you again. Thank you again. Thank you, mr. President, for recognizing us for the small part we've had in such a wonderful, wonderful state, city and university. So thank you very much.

[11:53:12]

[Applause]

>> mayor leffingwell: Please remain standing. Horns up for the playing of the eyes of texas by sergeant david crowther junior on the bagpipes.

>> And he looks like he could play defensive end too. [Laughter]

[ 🎵 music playing 🎵 ]

[ singing ] [cheers and applause]

>> mayor leffingwell: Thank you all for coming. We're going to take a few pictures up here. Is lyda rend on breek why.

[12:00:06]

>> Cole: Our city employees are valued by the city for their long service and commitment. They work tireless hours and give much of their life to this city. I would like to present karon teague with the distinguished service award. For seven years of extraordinary service to the people of austin as a dedicated city employee in the office of the city clerk. Karon teague is deserving of public acclaim and recognition. As a records management professional karon recognizes that information is power and that the information maintained by the city is one of our most vital aspects, ensuring that official actions are documented and that the city's history is preserved. Karon has been one of the city's liaisons with other departments responsible for seeing that her department complies with the records management requirements and assisting them by providing advice and training. People joke that record managers enjoy hunting for important documents because that adds excitement to a boring day, but we're wishing karon teague a time for her favorite pursuits, sewing, quilting and playing with grandchildren. This certificate is presented in appreciation of karon's years of public service, this 30th day of january in the year 2014. The city council of austin, texas, mayor lee leffingwell, mayor pro tem sheryl cole, council members chris riley, mike martinez, kathie tovo, laura morrison and bill spelman. Thank you, karon.

>> Thank you. [Applause]

>> I just want to say that working at the city of austin, and I've worked a lot of places, but working at the city of austin has been the best place I've worked, and to work with the city clerk and the staff and the city clerk's office has just been great, and I'm going to miss everyone at the city, and all of my departments. Thank you.

[12:02:09]

[Applause]

>> cole: Coming down? Thank you. Thank you for all your dedicated work, especially to the african-american community. I have a proclamation for you. Be it known that whereas in travis county african-americans represent 20% of all new hiv diagnosis. And whereas to the national black aids awareness efforts community partners have been working together with local organizations and groups that cater to african-americans to educate, empower

-- and empower community members with respect to hiv/aids health. And whereas thanks to the involvement of our austin partners, presentations, workshops on prevention, hiv testing and referrals will be made available to all citizens to help solve this major health challenge. Now, therefore, i, lee leffingwell, mayor of the city of austin, texas, do hereby proclaim january 30, 2014 as national black hiv/aids awareness day.

[12:04:16]

[Applause]

>> thank you, mayor pro tem. You know, this really is a huge issue in our community. The highest risk of hiv is among african-americans, even though only 6.9% of the population in our community is african-american, 19% of new hiv cases reported during 2010 to 2012 were in african-americans, and over the

last seven years the rates of hiv among african-americans were over three times higher than those of whites, hispanics and other races. So we really thank the work of our partners in this. The aids services of automatic, the wright house

-- house, houston-tillotson, the care program, h.E.B. And others. I also want to recognize the great work of clyde boyd in our program to promote this. And finally I want to mention that saturday, february 8 from 11:00 a.M. To 4:00 p.M. We're having our hiv prevention program invites the public to attend free hiv testing at the h.E.B. At springdale shopping center parking lot on 7112 ed bluestein boulevard, and it's an opportunity, really, to remember lost loved ones and empower our communities and impact our future, and we promote getting educated, getting tested, getting involved and getting treated. So thank you very much. [Applause]

[12:06:23]

>> morrison: Good evening, everyone. We are so fortunate in this town to have people that are looking out for those that are in need and helping to do outreach and protect the vulnerable, and here today I'm with gretta gardner and others who work on prevention of teen dating violence and working with victims. So we're here to recognize your work with a proclamation. It says, be it known that whereas respectful, supportive and nonviolent relationships are key to safety, health and academic success for young people, and whereas teen dating violence is a significant health issue with 10 to 20% of youths reporting physical or sexual violence from a dating partner. And whereas victimization increases teens' risk for injury, substance abuse, eating disorders, unwanted pregnancy and suicide. Young people exposed to violence are also at greater risk for becoming victims and perpetrators in adult relationships. And whereas we urge citizens to join the austin/travis county family violence task force in promoting healthy teen relationships and in participating in activities and conversations about respectful and nonviolent relationships in their homes, schools and communities. Now, therefore, i, on behalf of lee leffingwell, mayor of the city of austin, texas, do hereby proclaim february 2014 as teen dating violence awareness and prevention month in austin, texas. Thank you very much, gretta gardner. [Applause]

>> thank you, councilman morrison. I'm pleased to be here as the chair of austin/travis county family child task force and to be presented with some of our members and some of our chair persons. I'd like to introduce constable carlos lopez from precinct 5. Kirsha haverlah with the constable's office who is our chair for our policy subcommittee. Rosenbliewt with safe place, our youth issues chair. Barbara bowen with safe place as well, kelly paige who works with travis county be sheriff's office and is our public awareness chair. Chief deputy bobby gutierrez with constable precinct 5. We really are an amalgamation of the community and we're so fortunate that we really do have a multidisciplinary collaboration. We're very excited to be here today to honor february as teen dating violence month because in december we just added the youth issues task force subcommittee to our task force to really address how young people are being exposed to and how they're experiencing dating abuse and sexual assault. We'll be conducting a community-wide strength and needs assessment so we can identify the gaps in services for children and youth and develop a community-wide plan that addresses prevention through response. We now know that young people, age 12 to 19, experience the highest rates of rape and sexual assault. People age 18 and 19 experience the highest rates of stalking and 15.5 million u.S. Children live in families in which partner violence occurred at least once in the past year. Young people

deserve to have safe and healthy relationships, and it's up to all of us as adults, parents, teachers, coaches and other important people in their lives to start the conversation about safe, respectful, supportive and healthy relationships. Thank you.

[12:09:55]

[Applause]

>> good evening. I'm council member kathie tovo and it's my pleasure on behalf of the mayor and the whole city council to welcome our very special visitors from shishwan province up to the podium so that I can confer on you the title of honorary citizen of austin, texas. That's a special honor that we do sometimes when we have special guests coming through town. The mayor did provide a short introduction during the meeting itself and I'll just add to that a little bit. The leader of our delegation, mr. Pink ping has visited austin in 1998, and I imagine it's a very different austin to which he comes today, and so we welcome him back and extend our welcome to the other members of the delegation. They are, as I mentioned, from shishwan province in the western part of the people's republic of china. It is one of the largest provinces in china and it is also a main industrial center for the country and it is widely known as was mentioned earlier, for being home to the giant panda. These businessmen and women will be visiting austin for several days, exploring with local business leaders and local community officials on various business opportunities so we welcome them. We hope they have a wonderful time in austin and a very successful and productive visit. And now I would like to present them with the following certificates. They are all identical so I'll read the first one. The city of austin, texas confers the title of honorary citizen and the first one is presented to pang  
-- pang shishwan.

[12:12:42]

[Applause] [speaking in non-english]

>> she has a lot of

-- he is from shish wan province. [Speak in non-english]

>> for ten years ago he already was in austin, but now china they are born so much and there are many

-- grow so much. That's why he's very interested to come out and do some investment. [Speaking in non-english]

>> he say he come in one city, the city over 20 million population. And the place is very big, but they have very special because they have a penthouse, and they have a very interesting pen pal to austin, because austin, everybody knows has music festival, and also have a

-- but if we have a pen pal we're going to bring more people here.

[12:15:07]

[Applause]

>> tovo: Thank you very much for those words. And now I would like to present the remaining certificates and then we'll take a few photographs. Our next honorary citizen certificate, I would like to

present to song huaja. The next certificate is presented to shwee shay win. Pong dye shen chow shen chow. Thank you very much. [Applause] shish wan sichuan test test sichuan

[13:08:59]

>> Mayor Leffingwell: We're out of recess and I believe we are

-- the speakers who are against item number 33... The next speaker I have is john joseph with kelly wright donating time. So you have six minutes.

>> [Inaudible].

>> Mayor Leffingwell: One before you?

>> If you don't mind, I was going to wrap up.

>> Mayor Leffingwell: Herb harris.

>> Mayor, councilmembers, my name is herb harris, the president of the rob roy homeowners association. I'd like to recognize those of us that have been around through the ceremonies and are still here. There are not a lot of us left, but we're intense at least. Guys stand? They're here and I'm here to address a couple of quick points. This is a neighborhood that's largely outside of the city and outside of the e.T.J. We're part of the 25% that you heard about earlier. We've been out there since 1980, which makes us kind of the first development, if you will, that went outside the city. And we've done well, I think. We are opposed to the rezoning for several reasons and they've asked me to walk about the water one. The water being basically a synonym for safety in this instance. We are serviced by a 12-inch line that services our neighborhood and already without any additional load on it we've got water pressure problems. Now a bastrop holocaust that is not something that any of us stay awake at night dreaming about, but it is a possible reality for us and we've got to be concerned about it. We live in the hill country and we've got a lot of timber and cedars and we face the same dangers that they faced in bastrop and other places that have gone up. So it's very much on our mind. And we're already reduced water pressure at about 10% of our hydrants that are below standard that are low according to the fire department. We've got to ask ourselves and we want to ask you if we have a big fire what happens then? We're not going to have enough water. And the reason why wouldn't is if you approve the rezoning we're going to have either an 8800 square foot office building, which probably we could live with, or as our consultant tells us, four times that amount of water would be used by the apartment complex they want to put in. Four times as much. So if a fire happens, if it sweeps across the hills, we're concerned on a safety basis. This isn't just about your sprinklers come up and water your yard. This is about safety, it's about the lives of good people that have been out there a long time and we don't have very good water pressure now. And I guess the point that I really want to make and leave you with is if that happens is the proposed apartment complex is told that they have to put a water tank in to help them survive that. Now, we won't have that luxury. We won't have some big new water tank. We have just got the 12-inch line. And when the water pressure goes down in that, we're going to be out there by ourselves. And I just wanted to convey a sincere sense of danger and caution that we have.

[13:13:16]

[ Buzzer sounds ] thank you very much.

>> Mayor Leffingwell: Thank you. Councilmember tovo?

>> Tovo: I don't have any questions for this speaker, so it can wait.

>> Mayor Leffingwell: Okay. And so you have up to six minutes, john, with the time donated. Six thank you very much. My name is john joseph and I represent the rob roy homeowners association. Most family zoning adjacent to single-family detached is inappropriate. A developer will tell you or has said to the zoning and platting commission that this is a down zoning. I'd like to discuss the appropriateness of this zoning for a moment with you. As we already know the fire flow is inadequate even with no additional construction. The neighborhood has a fire flow report that demonstrates the flow rates for all the fire hydrants in rob roy and all are inadequate. Multi-family zoning for this property is inappropriate because it will require significantly higher she is tick water and

-- domestic water and fire flow than the approved pending low cloud deck site plan provides for

-- pending lo site plan provides for. The multi-family is inappropriate because the multi-family development that will increase the traffic over the lo site plan by almost two times. 88,000 square feet of the lo office, which is what is pending now by this landowner, and the site plan would use 969 vehicle trips per day and 225 multi-family units uses 1608 vehicle trips per day. The multi-family zoning is inappropriate because the proposed multi-family development will increase the development intensity immediately to the detached homes. Almost five times what is currently allowed. Is that slide up? I want to show y'all one slide r do I use this key here? The very last one. This is what 88,000 square feet looks like. This is what's pending now in the city of austin and what this proper has asked for an extension for this site plan, 88,000 square feet. This is what 433,000 square feet. I contend that's inappropriate adjacent to single-family detached homes. The hill country roadway ordinance limits the height of the lo development on this tract to 28 feet. By zoning application this developer is asking you to waive the requirements of the hill country roadway ordinance and allow for a 35-foot height without having to go through the hill country roadway ordinance requirement to determine bounces and additional -- bonuses and additional light. There's a valid petition of over 28.28 percent and if we count the other it's over 30%. We already know the fire flow is inadequate and one home in rob roy has already been destroyed by fire. We know that the families of rob roy are currently at risk to fire as of a lot of people in the hill country. We know that this zoning will only further aggravate this situation and we know that the developer of the property and the owners agreed before that lo and the development limitations that are contained in the restrictive covenant and were contained and are contained in the development agreement and the pud zoning for all of davenport ranch was appropriate and now the developer wants to change the deal. With these facts in mind and knowing that you're only going to make the fire flow and the traffic situation worse, why would you do that? Please don't do that. If you have any questions I'll be glad to answer them.

[13:17:25]

>> Mayor Leffingwell: So you are served by the city of austin water utility?

>> It's served by wcid number 10 and the austin fire department provides fire protection. And it goes through the city of austin development process and

-- but fire district 10 is the provider.

>> Mayor Leffingwell: Do they have lower standards? Does the water district have lower standards since

they're outside

-- serve mainly outside the city?

>> The standards are the same, but we don't have adequate fire flow now. And it's only going to get worse, mayor, by adding three times the development to it. It can't get any better. Whether the standards are the same or different.

>> Mayor Leffingwell: I understand. I'm just saying there's something wrong with this situation. I'm going to ask that question later of somebody else. Thank you. Did you have a question? Councilmember tovo? Okay. I think that's all the speakers. We have three minutes rebuttal from applicant.

>> Mayor and council, richard suttler on behalf of the applicant. I'll go through these quickly attend you can ask me questioned. On the fire flow deal if the neighborhood is right they ought to hope that this changes because if we don't have adequate fire flow and adequate water service we don't get a site plan or a building permit so we have a piece of property that we can't build on, which would suit them just fine. The traffic, I'm not sure what to say about the traffic. I live over in an area where I wish we could make exposition a private street and gate it at both ends too because we get a lot of cut through traffic, but the traffic numbers, our development doesn't even trigger a ti, it doesn't even trigger 2,000 trip tia. The trip gain is if you do the lowest level office trips or the highest level office trips that's a big swing number. And the staff always looks at the worst case when they compare trips. Somewhere in the middle is probably the right answer, but there's no 100% trip increase when we do the multi-family. It could be a big decrease if it was all medical, it could be a slight increase if it was all general office. On the size of the building, john's illustration was kind of interesting, but what he didn't show is he didn't color in all the surface parking for that office building, which would also be red because our building, the 400 some-odd thousand square feet, includes structured parking because we don't have surface parking. So that document that was shown up there is just not an accurate depiction of what's going on. I guess finally what I would say is that what they're arguing to you is that land use designations can never change. When they say they relied upon that zoning out there, we have this in our city all the time where over time zoning or appropriate land uses or market conditions may change. And we have put multi-family property or multi-family zoning

-- I've been responsible for a lot of it

-- in almost every neighborhood of our city, but we don't put many multi-family cases on the west side. And this is an opportunity that you can place it. It does not take access to a neighborhood. It takes access to a highway. It can be done in a way that is not going to impact the infrastructure out there. And we hope that you agree with us that it can be an appropriate use in this area. With that I'll close and y'all have a long night. I'll be happy to answer any questions you might have.

[13:21:15]

>> Mayor Leffingwell: First question is I believe in the earlier discussion when we were discussing a postponement you said that this wasn't quite ready for all three readings. There was still some work to be done, is that correct?

>> Because there is a restrictive covenant attached and it's not ready to go tonight, your usual practice is you would maybe act on this on first or first and second reading and then bring it back when the covenant is ready. And if the covenant only gets changed if the zoning case gets changed.

>> Mayor Leffingwell: Is it public or private?

>> It's a public restrictive covenant. You will talk about it at the next hearing, but they maintain everybody has to sign off on it, which we've never done. We maintain it's between the directly affected property owner and the city.

>> Mayor Leffingwell: Thank you. Councilmember Spelman.

>> Spelman: You mentioned the traffic issue and you talked a little bit about the impervious cover, the footprint of an office versus an apartment building. First if you could say more about that impervious cover footprint. How much space would be covered with cement and asphalt both under the office and the apartment?

>> So the impervious cover would not change. The office building is an office building with surface parking all around it. And that would be a number. And there's an allowable under the PUD that we are asking to stay at or under the allowable in the PUD. We're not asking to change that number beyond what was originally allowed in the PUD. What happens is on a multi-family, what they call a wrapped product, it's very similar to what you see here in AMLI, you put a parking garage in the middle and you wrap it with units around it. So your limits of construction basically stay the same.

>> Spelman: Okay. So the construction for the office as well as the apartment building, you might see a little bit more vertical.

[13:23:21]

>> Right.

>> Spelman: Imprint on an apartment building that will be higher than the office would be.

>> No. Actually, we're keeping the same height that is allowed for if the building, which is the 35 feet.

>> Spelman: But there will be more mass because we're talking about more square feet.

>> More mass, yes.

>> Spelman: The traffic

--

>> Let me address that briefly. It's more mass, but it is significantly lower than the neighborhood. The neighborhood is up here. Our rooftop is many feet less than their finished floor because they're above us.

>> Spelman: About how big

-- how tall is that bluff? 20

-- our rooftop would be 20 feet below their finished floor.

>> Spelman: Okay. Tell me about the water situation.

>> My understanding of the water is that there's two water lines a 12 and an eight. They come from different sources. I have not seen any report that says there's a deficiency in any of the lines, but if I take -- if we take them at their word, it must be the eight inch because what we've done is we've talked to the Austin water department and they've said as long as we tie into the 12-inch there's plenty of pressure and plenty of capacity. And in fact, we may have to put a pressure reducing valve on ours because we're going to be low to them and the pressure is going to be higher. If we're wrong you don't get to build if you don't have adequate fire flow and adequate pressure and volume.

>> Spelman: You don't get to build if you don't have adequate fire flow and adequate pressure. But if

your building has an affect upstream on their fire flow and pressure can you still not build?

>> I don't think they allow that either.

>> Spelman: We'll talk

--

>> that would be something that you could ask about.

>> Spelman: We will definitely ask about it. The argument you're making is because you're downstream you're going to get a little bit more pressure as it is just because you're downstream.

>> Yes.

>> Spelman: Tell me about the water tanks.

>> Water tank is the first I've heard about it. If water pressure to us becomes an issue, the standard thing that you have to do is you've got to mitigate for it somehow and you might build a water tank on your property.

[13:25:34]

>> Spelman: Okay. Who would be in charge of making that requirement?

>> The city of austin because they're going to be reviewing our site plans and our building permits.

>> Spelman: Okay. I'll ask about the city of austin in a couple of minutes.

>> Make sure you confirm that, but that's how it would work.

>> Spelman: The last issue mr. Joseph raised was the hill country roadway waiver. Tell me about that.

>> I don't view it as a waiver. What we tried to do is keep as many things the same in this pud. All we're trying to do is just change from lo to mf low density multi-family. The current height limit there is 35 feet and we just kept that the same as is.

>> Spelman: So you're talking about the same height limit as the office would have had.

>> Yes.

>> Spelman: From your point of view is there some height or bulk or any other characteristic of a development which triggers a restriction because you're on a hill country roadway?

>>

>> Spelman: How would the fact that you're on a hill country restrict the development?

>> If you came in without the pud I'd have to look and see

-- I have not researched it, but I would have to see would it be 28 feet if you came in without the pud.

There are sections of hill country roadways that you're limited to 28 feet.

>> Spelman: But you're not changing any of that.

>> Not changing any of that.

>> Spelman: Thank you. Mr. Joseph, you're and standing there looking expectant, I may as well answer a question.

>> We've not seen any information on the developer on fire flow, not a thing. Only information that I think y'all have seen on fire flow is what we've provided you with. And the height that's allowed on the hill country roadway ordinance is 28 feet and the only way that you can get to 35 feet is with bonuses under the hill country roadway ordinance regardless of what the pud said and that hasn't been done. Whether he calls it a waiver or not that's what he's getting and he's not having to go through the bonus process.

>> Spelman: So your argument is the office building couldn't get built either.

[13:27:37]

>> Not without a waiver, not without going through the hill country roadway ordinance. That's what's pending right now is the hill country roadway site plan that has gone through its cycle of 180 days and was expiring and they filed an appeal for to extend it for another six months. None of this information has been provided during the first six months, not traffic, not fire flow, nothing has been provided. And so what I'm saying is if we're going to compare, let's compare apples and apples. What they've said is -- what they've asked to build is 88,800 square feet of administrative office. That's 969 trips per day as far as traffic is concerned. And that's a discernible amount of water. What they're asking you to do -- I don't care what anybody says otherwise

-- is to triple it. Double the traffic and triple water. No matter what anybody says. It is true. We're getting cart before the horse. There's no reason to put these people in further jeopardy without finding out first what will happen to the traffic and the water.

>> Spelman: Mayor, I'd like to pursue the water issue with the city staff if there's anybody here who can answer the question.

>> Mayor Leffingwell: We'll get somebody from the water utility to come out and while we -- I just want to say that to me water issue is not an issue that should be before us right now. This is a zoning case. And as the applicant said, if it turns out that the water does become an issue, then they can't build it. I mean, that's going to be a requirement for site plan approval that they have adequate so-called fire flow.

>> Mayor, I don't have the information on the water. I do agree with what you're saying. And I'm familiar with river bend church which had to install a large water tank on their property because there wasn't sufficient water flow. I've worked on site plans back in the 80's and the early 90's where site plans could not have been approved without sufficient fire flow. So where I'm aware those situations exist and that is something that comes up in the site plan process.

>>

[13:29:59]

>> Mayor Leffingwell: But a site plan that endangers or further endangers, whatever your choice is, due to low flow and low pressure

-- low water pressure and low water flow, that site plan would not be approved in that instance, would it not?

>> That's what I'm saying, mayor. But there are remedies of providing water on property, of additional quantities that can help address the fire flow situation.

>> Mayor Leffingwell: But if they're served by the austin water utility normally you shouldn't -- certainly some of the rural districts might need that.

>> We can follow up with the water utility and most likely the wcid in this case, about their capacity or additional capacity.

>> Mayor Leffingwell: Councilmember tovo, we're still waiting for your expertise, I guess.

>> Spelman: I may have got it from the mayor. I'll wait.

>> Mayor Leffingwell: Councilmember tovo.

>> Tovo: Yeah. I just wanted to mention that at our hearing last week I think we did have a representative from the fire department as well as a representative from the water utility who were prepared to speak to this issue, and we

-- my office went back and forth with them to a pretty large extent. And I hope that they'll be able to attend our second and third reading so that they can provide the information directly because I'm not sure I'm going to capture it correctly. It was my understanding from my discussion with Bart Jennings of the water utility that WCID 10 would be required to make some infrastructure upgrades and so I felt quite relieved after getting the information from the fire department and the water utilities. Again, I hope we'll be able to get that representation here next time so we can all hear the same information.

>> Mayor Leffingwell: Is there a motion?

>> Spelman: I'm not quite ready for a motion. I wanted to pursue a similar question with respect to hill country roadway issues. I know Merit will answer the question too but I'm going to ask Greg first.

[Laughter] maybe we can get a reality check from you, Mayor. Is it appropriate to state that the similar -- the same situation happens with respect to the hill country roadway issues involved in this case as with the water issues? The stuff which come up at site plan, is that accurate?

[13:32:19]

>> That is accurate, although when you're dealing with a planned unit development, especially this vintage, it's not uncommon to modify standards as you might in other planned unit developments. So the office

-- I'll have to check on the claim by Mr. Joseph that it was not waived at the time the land plan was approved, I know Mr. Joseph had indicated that they would need a hill country roadway waiver to build the 35 feet. If the land plan had made allowance to allow building height by 35 feet, normally that would be allowed unless there's some notation otherwise on the plan it would say a waiver is required in order to achieve that height.

>> Spelman: What are the typical hill country roadway restrictions with respect to height? Is there a setback or just a height limit on any lot that's adjacent to a hill country roadway?

>> Generally hill country roadway applies to tracts within one thousand feet. There's a 100-foot buffer natural area requirement. Normally it restricts height to 28 feet for the first I think 200 feet and then you can scale up. This is a moderate

-- a low district and low intensity district so the heights would be limited to 28 feet. There's no credit given for topography. If the height of the roadway drops or increases in height as you move away from the roadway, the hill country when it was approved back in 1985, the intention was really to preserve the views from the roadway, not necessarily to protect the views of residents or office buildings that are adjacent to the project. Normally there's a 40 percent natural requirement that's in there. And also a screening requirements of certain things and buildings made of more natural material, some sort of native rock or stone or something like that.

>> Spelman: Like water issues, these issues we dealt with in sight plan, do you know if we granted zoning it could be that the applicant would not be able to build the apartment buildings they want to

build because at site plan we would say that they were very interested in some other ordinance.

[13:34:29]

>> That's true, although if there were things that were given to them in the pud they might be able to take advantage of some of those things and. And conversely if there's something that the pud further limited then they might not be able to take advantage of things that you might normally.

>> Spelman: For example, impervious cover.

>> Might be impervious cover or it might be issues that deal with the shape of the building, skinning of the building. Might be an increased buffer requirement that might be made by the pud for setbacks from the right-of-way, might be 100 feet, 125 feet or something like that, and that would be unique to that pud.

>> Spelman: The last thing I want it say, mayor, uncharacteristically a statement and not a question. 969 vehicle trips per day is 2-point

-- would be a 2-point one percent addition of the average daily trips on route 360 in that area. There are 45,000 cars on 360. 969 cars is 2.1 percent of that. And 1608 cars is 3.5% of that. So we're really not talking about depreciable change in number of cars on 360 because of this development whether it's office or multi-family.

>> Mayor Leffingwell: Councilmember morrison.

>> Morrison: Thank you. Greg, I have a question for you. I want to make sure I understand the hill country roadway height issue. So you're saying that the pud now actually gives 35 feet of height in this area.

>> I believe that's what's actually stated on the document.

>> Morrison: It's stated on it. So they wouldn't be involved even if they were building lo right now, they wouldn't be involved in having to sort of earn the heights with bonuses from 28 to 35.

>> I don't believe so. Mr. Joseph made that mention that it wasn't necessarily guaranteed by the pud and I think I would have to go back and see generally if there's an expression on the pud that states a square footage or height. That's usually given as being part of that plan. I think jerry can look and see if there's a reference on the pud itself. And granted this was a land plan, not a site plan. Will land plan called out three story office, 885,000 square feet and a 35 percent roof on the office.

[13:37:02]

>> Morrison: So it would just do 35 feet in office.

>> That's correct.

>> Morrison: So presumably this zoning change request that that 35 feet stay there. And it just change to lo.

>> That's my understanding from what mr. Suttle and what they've actually applied for.

>> Morrison: In general in the with a plot that's subject to the hill country roadway ordinance, what kinds of things are we talking about to actually get the height bonus? I presume there's somewhat superiority things or something that an applicant might offer.

>> You can do it under the bonuses and the criteria of the bonus deals with preserving scenic vistas,

limiting access to a roadway, not on a hill country roadway. So actually if you took access to a side street, not actually on the roadway, you you reduce this by at least 15% the amount of hill country that might be allowed in the development. Increasing landscaping or setbacks to more than 50% than might be required. There's 100-foot buffer. If you spoke to that natural area buffer being 150 feet, then that might be something that speaks to being a mixed use development that would include residential use or community facility. Reducing the building massing by breaking up buildings. So they're more distributed rather than a single large building. Using impervious pavers, using a pitched roof design instead of what you might see as a flat roof design. And actually in the proposed land plan there's a reference I believe to a pitched roof. And including construction or dedication of a public facility that's not required by city ordinance, that may be a park, a roadway, police department site or fire department site like a substation, fire station, something along that line. The limits of construction of a building or parking area with a slope that has a gradient of not more than 15%. So trying to move your construction to more flatter areas than more steeply sloped.

[13:39:29]

>> Morrison: Thank you. I appreciate that. And then one other question for you. And that is the -- so I understand the [indiscernible] is to -- proverbial is to use the same footprint as the office plus parking lots. Has staff taken a look at -- and really this wouldn't necessarily be you, but it might be environmental staff. Taking a look at any concerns or adjustments that might -- ideas for adjustments that might arrive to protect the environment because I realize the proposal is to maintain the same footprint, but still there's a different dynamic on the land if you're not having parking lot in many ways improved. So I guess that's -- and I see mr. Wozniak behind you.

>> I might let the environmental officer answer that questions, but certainly there are things that we can use today that didn't exist back in 1989 regarding rainwater harvesting and some of the techniques that we can use to actually hold water within parking lots to help mitigate some the water quality concerns. I'll let chuck address that.

>> Mr. Guernsey is right, the requirements for water quality treatment have improved since the late '80's and the capture volume is probably the biggest thing that has changed. And we could certainly look at that, whether this project would benefit from an increased capture volume. And that's probably something they could do without too much trouble. There may be some other things in terms of native landscaping, and rainwater harvesting, things like that that might be helpful as well.

>> Morrison: Thank you. So we'll see where this goes, but it does seem like if it's going to continue further it might pay to take a look at that. And then I have one other question and that's for the applicant, mr. Suttle. Could you talk a little bit about what the developer is envisioning in terms of I guess we know the number of apartments, it's 220, is that right, number of apartments?

[13:41:49]

>> We had applied for 245 and I think at the planning commission we got a unanimous recommendation

for 225.

>> Morrison: Can you talk about the mix and who it's going to be marketed to and what the cost -- what the rents might be?

>> You know, I will let the developer actually do that because that's still a moving target. It's a typical mix of some one, two and three-bedroom apartments. The rents are

-- jim, why don't you come talk about the rents? I'll get the numbers wrong. I'll let him do that.

>> Thank you. My name is jim gallegos. We've done this with the wrap type of product we're looking at, and the mix right now is about 60% one bedroom with 40 percent two bedrooms, with maybe a couple of three-bedrooms mixed in there. As the number gets lower that affects that. As far as the rents out there, we're trying to get somewhere in

-- we would try to get somewhere around 1.80 a foot or 1.75 a foot, somewhere in that range. That's what we're trying to get with this new type of product. It's a little different than what the other products are at there. It's a wrapped deal so it has covered parking and those type of

-- where you can get those types of rents.

>> Morrison: Do you know how

-- I don't know these numbers. How \$1.80 compares to what the market rent is in austin?

>> Yeah. We've looked at the rents out there for the current

-- the developments that are close by there. And within

-- probably within the 2222 and 2244, bee caves road and 2222 area, and the rents for some of those that are about seven to 10 years old right now is somewhere around 1.50 a square foot, 1.50 a square foot. Some are up to 1.60 a square foot.

>> Morrison: Thank you.

>> Thank you.

[13:43:54]

>> Mayor Leffingwell: Councilmember tovo.

>> Tovo: Mr. Gallegos, since you're up at the podium. It is my understanding you're also considering reserving some of the units, or at least exploring this at this point, reserving some of them for affordable housing. I wondered if you might describe your intentions in that regard?

>> Thank you. I met with regina kopek over at the affordable housing

-- over in east austin. It's located over on the east 11th street. And I met with her again yesterday so I've been some moring this possibility. We're looking at 10% of the units at 80% of what the median family income is and in trying to do that for owe we were trying to do

-- we're going to do that at 2.45. We'll continue to do that at 2.25. We're trying to figure out with her and continuing the talks with her about trying to figure out what types of units that would need to be. And really what the need is for. And we want to do that.

>> Thank you. I know you said there's a mix of one bedroom, two bedroom and three-bedroom. Do you have a sense at this point yet of how many three-bedrooms you might be looking at?

>> You know, I don't, but it looks like in that area the demographic over there is for more one bedroom and two bedroom. The three-bedrooms, depending on what we can do, there are probably the least amount of three-bedrooms, but I don't know exact numbers of those right now.

>> Tovo: Okay. Thank you. I'll just mention to staff since someone  
-- several people among the group talked about the impact of schools that it would be fabulous if we can get an educational impact statement moving forward with all of our school districts. I know that's something you're working on with some of the surrounding school districts, but I think it would be helpful information.

>> Mayor Leffingwell: Okay. Further comments or a motion?

[13:46:02]

>> Spelman: Mayor, I move to close the public hearing and approve the item on first reading only.

>> Mayor Leffingwell: Councilmember spelman motion to close the public hearing and approve on first reading. I'll second. All in favor say aye? Councilmember morrison.

>> Morrison: This is a really hard case, no doubt, and there's a valid petition. So it makes it even harder. I've been thinking a lot about it and I know we have a complication of the restrictive covenant and comma does that mean and the court will tell us what it means and all that. When I look at the land use multi-family there in that spot I don't think it's an inappropriate land use. I think that a lot depends on other things and how things work out. And so I know there's a lot of details to work out. Certainly if the environmental officer could go off and look at some of the opportunities to adjust for modern environmental issues, but still I think that this case does need to meet a high bar to make it appropriate because there is such concern about it. So

-- of course all eyes are on every vote here because there's a valid petition so I think I will vote yes to indicate that I don't think this is an entirely inappropriate

-- it's not clear to me that I would vote yes on third reading, but I do think it's not unreasonable to consider it, which is what I think this vote is.

>> Mayor Leffingwell: Councilmember tovo.

>> Tovo: Yeah. I have nothing to add beyond the comments I made earlier except to say that I too am willing to

-- I believe this is an appropriate land use. I do believe also that the neighbors have raised good concerns that we need to continue to resolve, specifically the one about water is the one that concerns me most. I agree with the mayor that it is something that should be sorted out in the site plan, but I also think it's an important enough issue that we should feel very comfortable and confident that we're not putting lives in jeopardy before we approve a rezoning request. So I am going to support this on first reading.

[13:48:19]

>> Mayor Leffingwell: Okay. On this vote, because it's first reading only, a valid petition will have no affect. So all in favor? Opposed say no? It passes on a vote of seven to zero. So that brings us to item number 38.

>> Good evening, council, kevin johns, director of economic development. This item is the public hearing for athena health's proposed economic development agreement. Athena is an excellent company and we're excited to have them consider austin. I have two brief comments. First, athena health can choose to locate anywhere within the downtown. The incentive is not being used to direct athena health to

locate at seaholm. I want to note that they seem to have a pro pens approximate I to locate in old iconic buildings, the arsenal in massachusetts and the old city hall in atlanta. We're primarily interested in them locating in downtown austin and being a catalyst to our live science cluster appeared the new medical school and teaching hospital. Related to that seaholm financing stands on its own with a tif that will be repaid whether this company locates there or not. Second the loci analysis, the low cost benefits software approved by stakeholders and city council was used to determine the return on investment on athena health wherever they locate. It's cash positive. After costs for police, fire, etcetera, are factored, the city still gets excess revenues. For this project we're using the special economic reserve fund meaning the city collects 100% of the property taxes from the company. Lastly in a new study that was prepared by texas state university on the roi of city of austin incentives, the author looked at incentives 380 agreements throughout texas and concluded that austin provided businesses the second average lowest grant amount, but research also revealed that austin produced the most significant economic impacts, the high sum of jobs created, the longest average job length, the average salary, the highest established salary and dictated lower supply use in all et agreements reviewed. I wanted to give you some background information. We have staff here to answer any questions after the public hearing. Thank you.

[13:51:11]

>> So kevin, I have a question for you. Why is it so difficult to promote the message in a way that's understandable to people that this deal  
-- that the city of austin is not spending money on this, that our taxpayers are making money on it? How do  
-- how can we get that idea across?  
>> I think we all know it's a common misconception locally simply because nationwide there are a lot of articles on the misuse of incentives. A lot of cities use incentives and pay the companies in advance of having to the performance met and then they have to try and either claw back or get back stuck with companies that don't perform. Austin is unique nationally in that it is performance oriented and the loci analysis, which essentially tells the city how much money not to give, although used by 200 governments around the united states, here it's used in a very transparent process. You will recall that we were ranked as getting 100% ranking as the most transparent location in the country for incentives. So I think it's a combination of the fact that incentives nationally are being questioned and a lot of places they're not being used properly. And of course I think those combined contribute to just a question about why we're using incentives, how much is the return on investment. That's all I wanted to illustrate that this new study from texas state university indicates that the studies they've looked at in 380 agreements throughout texas, ours was the best performing, showed the return on investment and were successful in getting the job done whether it's the taxes generated that were in excess of the taxes to provide the services ors it was providing the highest paid wages of the jobs that lasted the longest we came in number one in those analysis.

[13:53:32]

>> Mayor Leffingwell: We've been doing this now for about 10 years roughly. And we hear the same argument all the time and it's just never true. That in the last 10 years we've done either 15 or 16 economic incentive agreements. To the best of my knowledge, tell me if I'm wrong, every one of those has been cash positive, verified cash positive for the people of austin.

>> That's correct. We have nine current because two withdrew. We have nine current and they were all cash positive and remain cash positive.

>> Mayor Leffingwell: Okay. Thank you. Any other

-- councilmember spelman?

>> Spelman: Very briefly. Kevin, could you give us a copy of that texas state survey?

>> Yes. I'll send a copy to all city council and to the mayor.

>> Spelman: Thank you.

>> Mayor Leffingwell: Okay. We have a number of speakers. We'll dead and go to those. Paul robbins is first. Donating time is claire deyoung. Claire is here so you have six minutes.

>> Good evening. The land for seaholm that this firm will be located in, it was owned by austin energy, it was purchased in 1903 by a private electric water company, the chief rival of the city of austin. The utility owned this land for over 100 years until it was ordered to surrender it to the general fund without a penny in compensation. In 2004 the building and the land were valued at about \$14 million. It's a hazard

-- I hazard a guess that it's worth a staggeringly higher sum today. Personally I think taking this land from austin energy was fiscally imprudent. I'm surprised it did not make it into an issue in the recent rate case, however given that the renovated building was originally promised as a museum or a public use facility, you could at least argue that the citizens would get something for their investment. Austinites have envisioned using the renovated seaholm buildings as a museum or public space since at least 1980. But as we know things changed after the award was given due to alleged, quote, market conditions, unquote. And the citizens will receive almost nothing in the way of public use of this building. The seaholm project is also going to have about \$14 million going to enhancements to the project from tif's, taxes that would normally go to the general fund. While it can be argued that these enhancements are public, it can also be argued that they directly benefit the private development. So you have at least \$28 million in public money going to the project so far. Gee, I guess \$28 million isn't enough money, council! We have to give more. Now they want more so the development can land clients to rent a building that was originally intended as a museum or public space. The economic development subsidy will be paid with my electric rates and taxes, so pardon me if I'm not enthusiastic. I get to pay higher rates in taxes to create jobs for people that for the most part are not even here yet. The new people will worsen austin's already bad affordability crisis. According to texas a&m real estate institute, in 2013 austin had the highest average housing costs of any texas city or region. According to a study by the national low income housing coalition, in 2013 austin had the highest apartment rents. According to my own study in 2011, austin had the highest water and wastewater rates of the top 10 texas cities. It was probably the leader in 2013 as well. According to the texas transportation institute in 2011, austin had the worst rush hour travel time index of 32 cities in america with a similar population. I pay for all this with my taxes, rates and a reduced quality of life. And you want me to pay more money for people that don't live here yet to make it worse. There is a saying that a rising tide would solve votes. But in this case a rising tide sinks most of them. I leave you with this thought. I love this city and despite its many problems I have

done what I can to make it better. And I am really sorry to say this, but council, there are three cities competing with austin to get this company and I'm rooting for san francisco. Austin is growing too hard, too fast, and if you don't put the brakes on, maybe they will. Good evening.

[13:58:56]

>> Cole: Thank you, mr. Robbins. [Applause]. Mike rollins. Dave porter, are you here?

>> Yes.

>> Cole: Kiwi [indiscernible]? Are you here? Okay. Mr. Rollins, you have nine minutes.

>> Thank you, mayor pro tem, members of the city council. Mike rollins, president of the greater austin chamber of commerce and I'm here tonight to encourage and ask you to vote for the economic development agreement as recommended. I have a few minutes of comments I'd like to make, but before I do that I want to mention some people who were here earlier and stayed for two to three hours who were prepared to testify in support of the economic development agreement. Jack mcdonald, ceo of silver back acquisitions, was here earlier. Pete winstead, founder of winstead law firm. We had chris yee, manager of software development for black ball here. Tom erickson and [indiscernible] of ikea. They were all here earlier this evening in hopes of being able to come before you to support and express their support for this agreement. I think first on athena health I would say that athena meets a lot of the criteria that's been set forth by count over the last 10 years, 11 years since the economic incentive agreements have been in place. [One moment, please, for change in captioners] austin was growing too fast, had too many jobs, had a lot of infrastructure challenges. Then we all remember what happened in 2001. We took the eye off the ball and continuing our job growth, we lost \$2.4 billion in payroll because we thought everybody wanted to come here but they didn't want to come here. So it took us ten years to rebuild from 27th to now having one of the best economies, and I'd say we need to look forward another few years to make sure we continue to diversify our economy here, create the health care, life science, biotechnology jobs that I think we've worked so hard over the last number of years, all of us, to bring to this community our next generation of jobs. And as you know under mayor garcia, the community came together. It wasn't just business, it was all facets of citizens in austin who said at that time in 2002 and 2003, never again should we allow our economy to get into the shape where we're having layoffs at the city and \$2.4 billion of payroll evaporate out of our economy. And so that was when the incentive process was created and it was created to use for the right times, and as I said earlier, game changers, to me health it is where we're heading here in austin, taking advantage of our workforce here. So I would suggest to you that this criteria that was set forth by city council is met through this economic development agreement with athenahealth, and again, we urge your support for this economic development agreement. Thank you and I'd be glad to answer any questions.

[14:03:00]

>> Council member spelman.

>> Spelman: Mike, I have a question for you. Let me be sure I understand your argument. We were growing leaps and bounds in the '90s. Then we ran into an iceberg and lost a lot of payroll, lost a lot of jobs in 2001 and 2002, and we've been rebuilding since then. What happened in 2001 and 2002. Why is

it that we lost those jobs?

>> Well, I think if you look back into our economy back in 2000, after the millennium, we were pretty much a

-- if you will, a one-horse type of economy here. We focused a lot on and we're glad we did and continue to grow the semiconductor industry. What we didn't do is continue to invest in that and broaden our economy, diversify, because there's going to be cycles in all economies, in all industries, and we have the opportunity now to become a real player in the life science, health it and biotechnology in the future, which will help us through these cycles in our economy.

>> Spelman: So if somebody

-- if semiconductors are up and we're only in semiconductors, we're up, and if they're down we're down, and that's what happened in 2001 is your argument.

>> Absolutely.

>> Spelman: Is this it or is this health? What's the difference between

-- how is health it different from just more it?

>> Well, let me give you my definition of it and I'm sure others following can put a little bit better definition to it. I think when we talk about health, health care delivery, you're talking about the seton st. David's, the doctors, the physicians in our community. Health it I think is helping the physicians, the medical school diagnosis

-- diagnostic, come up with ways of realtime information, the sharing between doctors and helping patients. And I know it's a little bit more than that in analytics. That's a lay definition.

>> Spelman: Well, this is a company which specializes in providing business support services for the health industry.

>> That's correct.

>> Spelman: And is it reasonable to believe that its business cycle is going to be tied to the health business cycle and not to the general computers business cycle?

[14:05:05]

>> That's correct.

>> Spelman: So

--

>> and I would also suggest, council member, this an opportunity because there will be some research and development component to this company that will play very well with ut, medical school, and from that there's always employees who think they can do it bigger, better and faster and we'll be new companies created out of that type of beginning.

>> Spelman: Is there going to be a way of the activities at athenahealth feeding into things that are happening at ut, things that are happening in the medical school, given they'll be focused

-- at least the medical school will be primarily focused on delivery of services rather than the business support services?

>> Absolutely. I cannot predict the future, but it would not surprise me if that would have some kind of good relation

-- working relationship between athenahealth and ut in our other health care delivery systems here in

austin, and bigger than austin.

>> Spelman: Thank you, sir.

>> Yes, sir.

>> Mayor leffingwell: If I can just follow up on that a little bit because I think that's an excellent point which illustrates basically what we're trying to achieve now to make us different from what happened in 2001, is diversity. Still technology but diversity. The two keys for me are diversity, different kinds of technology, life science, social media, chip fabrication, green energy and gaming, on and on, and the word that kind of goes with it is "convergence," how all these technologies come together to create a critical mass for a super-economy, which is I think

-- you know, maybe that's a little bit over the top to describe our economy in that way now, but it's not far from it. All these parts working together to provide protection against the cycles in individual energies and also they come together to help each other.

>> Right, mayor, we make no apologies for prosperity, economic prosperity is what drives anybody's quality of life, and as we've said over and over, job opportunities are the beginning of a good quality of life, and this has that opportunity to continue that momentum for austin.

[14:07:17]

>> Mayor leffingwell: Yeah, you know, I

-- it's probably a gross oversimplification and probably a little bit corny, but, you know, we powered this jet up to 35,000 feet, but if we cut off the engines now we're not going to stay there.

>> Absolutely.

>> Council member riley.

>> Riley: Mr. Rawlins, I appreciate your comments and it makes good sense to me. But I can also understand a different view of someone who says, well, to me this is just more traffic on the roads, that this just

-- that much more

-- that many more people competing for housing, competing for parking spaces and just making life more difficult because

-- because it is

-- as newcomers come into austin and exacerbating issues we've got that are associated with our current growth. How would you respond to that? Does the fact that it's in the health care industry

-- does that somehow blunt

-- I mean, should we just ignore those issues because it's in the right industry?

>> Well, thank you, council member. I think the aspirational goal of city council has always been to create employment clusters density. This company has chosen to

-- the incentive deal goes forward, if it does, to locate in a dense downtown area creating employment, walking, living quarters closer to downtown. We can all go outside and see the multi-family apartments that are being built downtown. So I think this is really delivering on the dream that council has set out, when you have employers willing to come into a dense area and locate.

>> Riley: Okay, thanks.

>> Mayor leffingwell: Any other comments? We'll go to the next speaker. Gus pena.

>> Thank you, council members.

>> Mayor leffingwell: Gus pena. Clark matheny? Clark matheny? David king?

[14:09:29]

>> Good evening, mayor, mayor pro tem, council members. Thank you for the opportunity to speak tonight. You might recall that in 2001 the u.S. Economy started declining. So there were other factors to consider when we try to look back and justify economic incentives today based on an economic downturn in 2001. Austin has given millions of dollars in incentives to corporations over the past seven years yet income inequality in austin has worsened and incomes for low and middle income families have become stagnant. These economic development incentives have not trickled down to the low and -- middle and low-income families here in austin, texas. Corporations claim that these incentives help increase property taxes for the county and the city, yet these same corporations use equity appeals and nondisclosure laws in texas to reduce their property taxes on their commercial and industrial properties here in austin and travis county. Since 19 -- since 2008, samsung has received over \$33 million in incentives from the city. In 2012 samsung sued appraisal district to reduce its property tax from \$2.7 billion to \$1.4 billion, its appraised property values. As a result travis county and the school district and the city of austin lost \$11 million in property taxes. That same year austin gave samsung \$7 million in incentives. That seems wrong to me. In july 2013 samsung surpassed apple to become the most profitable smartphone company in the world yet 90 days later austin gave samsung over \$14 million in incentives. Samsung does not need these incentives. Every year travis county and austin's independent school district and the city of austin lose millions of dollars in property tax revenues because high end residential, commercial and industrial property owns take advantage of equity appeals and nondisclosure laws to unfairly reduce their property tax appraisals. Instead of giving incentives to corporations like athenahealth, please help our low and middle income families. Please increase the property tax exemption for elderly and disabled homeowners here who are struggling to pay higher and higher property taxes. Please do not turn seaholm into offices. It should be used for civic, cultural and local retail business purposes. Thank you.

[14:12:09]

>> Mayor leffingwell: Margo dover? Margo dover? Pete winstead. Pete winstead, not here? Jack mcdonald not here? Brian rogers? Donating time is scott johnson and liz corasco. Corasco.

>> Good evening, I'm brian rogers with change austin.Org. Using public money in the economy is inflationary. If the fed monetary policy they would tell you the last thing you want to do is pour gasoline on an open flame here. You talk to developers and they go, what's your biggest concern? They go, land prices. So

-- but let's look at some of the things here. We've got

-- here's what campo says, the capital area metropolitan organization, planning, that right now we're at 16% congestion, these numbers are actually old. If we spend 18 to \$20 billion, we will be at 40% congestion. This is what's going to happen. If we don't have the money, which we don't, it's going to be 55.5. So the point [inaudible] is going down. This is the water. Of course we

-- I don't know if they have two years or three years or four years left. That's what we've been told, depending on what the

-- what the demand curve does. And this is the quality of life that we have in store for us. Okay. This is where I'd show the mayor how it doesn't make money. It's a convenient way to show that, oh, yeah, we have sales taxes come in and we have costs, and there's a \$1.6 million extra. But that forgets that we have capital costs that go along with these 632 people. We have schools, roads, public transportation, parks, and the capital infrastructure. It's as if you were talking about seaholm and talking about the lease rate and the electric bill but you forgot to talk about the capital dollars spent for seaholm to be brought to a habitable condition. You need to spend capital dollars. Now, let's look at office space. 110,000 feet, three spaces per thousand, there's 330 parking spaces, but we got 632 employees, 607 plus the 25, that's consolidated. 330 parking spaces for 632 employees. Where were the other 302 employees? How will they get to work? Well, we have

-- what we show from

-- this is the web loci. This isn't me. We've got 60% of the people are commuting from

-- in the county, okay? So we got 60%. We have 377 employees that are going to be coming in from the county, 255 live here. So those 330 parking spaces are probably going to be in premium for the people who are commuting. So how much of this dollar amount has been allotted for transportation? Well, if you look at the cost on the left side, it says support recreational, libraries, there's nothing in there in the annual expenses for transportation. What about capital infrastructure? Well, who pays? Okay. I'll pull this off of the web loci. They got zero in there for public works. Now, I do financial modeling, and I can sure

-- I can make any project either look great or look bad by what you put in the numbers. And these numbers aren't working. All right? This is how

-- do you suppose we're going to pay for it? You've got

-- you've got these road, you've got all of this public infrastructure that's going to be needed for these people, and I guess it's just going to be magic. So 506 new households are going to be formed with 172 households in this jurisdiction. But I thought we had 90% local hires and how do we get 506 new homes, and I don't know that answer and maybe you have to ask rodney because it doesn't make sense to me for hiring all locally. Now, we also have jobs held, local jurisdiction, so the jobs are outside the county

-- I mean, outside the city mostly who we're going to be employing. So here's another community impact model. This is just the capital infrastructure that I had sworn out of eugene, oregon do. You have 172 people and they're all going to need housing as web loci says. What is going to be the cost for schools, road, police protection, and these are all national standards on a community model. It comes out to be \$4.7 million. Okay. Let's take out water and sewer, because we have new impact fees now. Comes down to about \$4 million. Well, you know, that

-- this is

-- these are the costs that the mayor is saying

-- is not acknowledging. Everybody is real cognizant of the seaholm needs capital cost, but everybody is definitely in line when it comes to what's it going to cost to build a public infrastructure to service all these people that are coming? Well, see no evil, let's just do this deal. Have faith. Well, the quality of life is going down. So here is my accounting of the athenahealth. Total

-- net benefits are 1.6 million as shown on the web loci, but then you've got capital costs of overtime. So

it's a negative \$2 million. Now, maybe there's other reasons to do this deal, but it's not because of capital cost. So if you have any questions  
-- welcome to austin, but pay your own way.

[14:18:17]

>> Thank you, hey, brian. We talked about this recently, the issue of web loci being one approach to doing the costs, and there's a lot of assumptions in there. And I've done some reading. There are some other models out there. The one

-- the information that you gathered from the gentleman in oregon, does that actually fold into any models that you know of? Because, you know, we've used web loci for five years now or something, and I'm wondering if it's not time to step up our game and do a little better  
-- more sophisticated analysis.

>> Well, I spoke to [inaudible] today about

-- the web loci is an economic developer's software, and you can compute capital cost in there if you chose to do so, but they don't. Now, when I was a part of the economic development back in 2009 we had a roundtable and there was the chamber and there was me and michael oden, what we said, we have improved process. They said we can't

-- we're interested in total accounting. We want to know the right answer, not the answer that leaves out some of these big costs. And we're not getting there.

>> Morrison: It's just not happening. Okay, so from your understanding, web loci can accommodate, can do that analysis?

>> Right.

>> Morrison: And we're just not doing it. Okay, we can talk with our staff about that afterwards. Thank you.

>> Mayor leffingwell: Bob batlin?

>> Not here.

>> Mayor leffingwell: Chris yee? No chris yee. Larry graham? No larry graham. Charles betz?

>> Mayor, members of the council, mayor pro tem, I'm charles betz. I'm the executive director of the downtown austin alliance, which is the organization of downtown property owners. And I'm here this evening to urge you to vote to execute this economic development incentive program for aetna health. I would make just a number of quick observations. Number one, I think that aetna health is a wonderful, wonderful match for what is happening in our community. We are terribly excited about the implications of the innovation corridor that is playing off of the new medical hospital and the new teaching

-- excuse me, the new medical school and the new teaching hospital. It's just a perfect match. Secondly, we think it's in the right location, and I guess you could say that is

-- that I would say that as a downtown advocate, and I certainly would, but it's in the right place. It's consistent with the citizens imagine austin plan, it's consistent with the downtown austin plan, with the citizens of

-- which the citizens of our community worked hard and long to produce. It's very consistent with that. And they're locating in the heart of downtown, where we already have utilities, and we don't have to

build new streets, or we built

-- the new streets that we're building are paid for by the I object correct taxes in

-- increment taxes in that area, and we're getting an economic use from an iconic building that the community really wanted to save. And the seaholm power plant was very, very difficult to get good economic use from, but by virtue of the leasing of this space to this company, we can get some economic benefit for all the citizens. I am also impressed with the economic analysis that your economic development department has done. I think it makes sense. I think it's

-- it provides the community with a good return on investment from this investment. The one last thought that I had, it's so gratifying that our community is ranked so highly in all the economic magazines across the country, we're riding a nice economic development, but I have lived through and some of you have lived through the down cycle. We're in an up cycle right now and we're doing so well, but it is very difficult to keep the lead. We're ranked very highly in many of those

-- in many of those economic studies, but to maintain that position and to keep the lead is indeed challenging. It may be harder to keep that lead than it has been to get there. And we had to work hard to get there when we weren't there.

[14:23:20]

>> Mayor leffingwell: Thank you. Jason bornhors?

>> Evening, council. I'm jason bornhorst I'm a log technology entrepreneur, ceo of a labs. We're health it startup located a few blocks from downtown austin. My company produces software for health professionals to help them trap patients whenever patients are outside the clinic. We're a graduate of the texan star austin startup incubator in town. We raised significant seed capital by people, and, in fact, I moved to austin about four years from ann arbor michigan because I believe in austin's technology as a technology epicenter. My purpose today is to give you a viewpoint from the trenches of the startup ecosystem. I hope that you support this issue. I feel that athenahealth in austin would be a mag in et for high tech talent to be brought to the city. I think the reason for that is they would serve as a launch pad for folks seeking high tech jobs. This is how it works out in the bay area. It's a central part of a vibrant ecosystem. It serves as a great starting ground for tech applicants. They work for several years, and when they're ready to leave and start companies or other startups. I think athenahealth clears that path for us and it would be very helpful as a startup owner to build more talent here in the city. In addition to that I think austin is poised to become potentially the health it center of texas. It was asked what the difference between health and it was and I think that the answer is health it is about to become the flourishing market of the next five years. It will be become a significant part of their economy. Athenahealth joins other strong players, such as seton and clears the way for people such as myself to become strong and grow. Personally I hope you vote for this issue. I'll answer questions.

[14:25:35]

>> I've got one.

>> I don't think we're going to let you vote but we appreciate your comments. Mr. Spelman?

>> Spelman: You're saying that you asserted that

-- the value of athenahealth from your point of view is it's a good place for it professionals to start. They work there for a few years, then they get a good idea and they leave to start their own company. Is there something particular about athenahealth, the services it delivers, the way it operates, something about that organization that makes it particularly good for that?

>> I think the fact that it operates in the health sector, right, so it's representing the growing market, and I think that's attractive to both like new and existing talent pools, and I think that's really strong for austin.

>> Spelman: Okay. Do we have much health it now? Austin?

>> Well, you have existing players such as seton health it, not as much as I'd like to see. I think it's growing. I think you do on the startup level, but it's just the early years. It's important to understand that government regulations have just gotten to the sweet spot to allow this market to flourish, in my opinion.

>> Spelman: The ecology of

-- we haven't got time to get into the detail. I'd love to at some point get into, but if you get a bunch of startups and know it's like

-- this sounds to me like a shopping center. A shopping center needs an anchor. If you've got an anchor it's going to draw people on a reliable basis, then storefronts will make more money. Is that analogy at all close to what you were getting at with startups?

>> Yeah, I think that's fair to say.

>> Could elaborate on that a little bit?

>> I believe it's fair to say that athenahealth would be [inaudible] for health it in austin.

>> Spelman: I didn't mean put it in a complete sentence. I just wondered for there was more to it than my scatterbrained a knowledge.

>> Recruits in this energy [inaudible] startup. I believe a large source of talent comes from existing technology companies, so in that sense, yes.

>> Spelman: Okay, so we have an anchor which would provide a steady pool of talent for you to raid.

[14:27:38]

>> Correct. Correct. Startups grow due to their people, right? And those people have to come from somewhere.

>> Spelman: Yeah. Okay. Thank you, sir.

>> Yep. Thank you. Council I, if there's no objection I'd like to pause just a moment, table this item and I understand there's agreement on the next item, which is item 39, complete agreement for a postponement until february 13. If there's unanimous consent to do that. Is there any objection?

>> Is that [inaudible]?

>> Mayor leffingwell: No, no. [Laughter] you can try that one next, though. So by unanimous consent item 39 is postponed until february 13. Except for mike martinez is off the dais. So now we'll go back to our next speak barksdale.

>> Good evening, mayor and members of city council. My name is john barksdale, and I'm here as a resident of the city of austin and as a representative of my company, cbre. Cbre is the world's largest commercial real estate brokerage firm, and as such we represent over 80% of the world's fortune 500

companies. Many of these company, as you know, have been seeking expansions and/or relocations out of areas that are more expensive or proving to be difficult to expand business. In october of 2011 I was engaged on behalf of hib global, they're headquartered in irvine, california, and the task was assist them on a consolidation effort into one north american center. My firm was engaged in both the site selection process and in the incentives negotiations with local municipalities. Several locations were considered nationally before, and we settled on both austin and nashville at the end. I'm here to tell you that with 100% certainty had austin not delivered the incentives agreement that they did, hib global would not have opened their new state-of-the-art facility in december of last year. They would not have settled on the acquisition and development of a 250,000-square-foot operation center, they would not have committed over 35 million in capital investment. They would not have committed to delivering 280 jobs with average wages over 51,000, and they would not have announced earlier this month the relocation of their corporate headquarters out of irvine. This announcement will commit another 50 additional jobs at the c-suite level. I'm asking you to please support the proposed economic development agreement for athenahealth care. We've climbed high as a city, but let me kindly remind you that the higher we climb, the farther we fall. Now in our recovering, national economy is not the time to risk that fall. Without an aggressive incentives program these jobs created by the likes of hib global and athenahealth care will go elsewhere and austin will take a back seat to cities looking to emulate our current model as successful job creation. Thank you. I'd be happy to answer any questions.

[14:31:21]

>> Mayor leffingwell: Council member spelman.

>> How do you know hid global wouldn't have come here?

>> I represented them. I was in the room with them as they were going through their decision-making process. I understood what we were up against in the other municipality, nashville was another one that they were considering, and they wanted a community, they wanted a city that wanted them, and austin in the end provided that.

>> Spelman: One of the arguments that is told in planning classrooms all over the country is that logistics matters a lot, talent matters a lot, quality of life matters a lot, and the effect of the incentives on a cash basis is trivial compared to all the other drivers of location, relocation. Given we're talking about a very small percentage of the revenues and the costs that athenahealth is dealing with, how could our measly \$67,000 a year, and the state's relatively half a million a year have a big impact on this? You're suggesting it's just a way of showing we love them.

>> That's one aspect of it, but I would suggest that austin has a great talent base here, but we are competing with raleigh, with minneapolis, with denver, with san francisco, with boston, with atlanta. These are all companies

-- or these are all cities that are looking to emulate our incentives-based program, and they're going to compete effectively once we start shutting down ours. And they're going to win these jobs. This is about job creation, in my opinion, and I don't

-- I don't believe that it's worth risking losing those jobs over what you suggest is a fairly minimal amount of dollars.

>> Spelman: Well, whether it's a minimal amount of dollars from our point of view is less important right

now. It feels like it's a minimal amount from athenahealth's point of view, and what you're suggesting is we're close enough to the margin that we're so close substantively for raleigh and atlanta and other cities, that this is enough to make the difference. We're not so much better than atlanta that they would not cheerfully go to atlanta if we did not offer an incentive and atlanta did?

[14:33:48]

>> Well, I can really only speak to the decisions that hid global was making because I represented them. And I can tell you that being in the room with those guys while they were making decisions, incentives weighed very heavily on their decision. And so I can only assume the same is happening in those closed door sessions with athenahealth care.

>> Spelman: Okay. Let me ask one follow-up question. If the extent

-- if the

-- the thing you identified is that this is a community that wanted hid global, and had we not offered the incentive we would have been sending a market signal that we didn't particularly want them. Is there anything more to it than just our expression of gratitude and need, or is there more going on in the heads of the guys of hid global than that?

>> Well, we're a great city and well located in the middle of the country with a great intellectual capital base.

>> Spelman: Is there more associated with that market signal, is I guess what I'm getting at. By granting them an incentive are we also sending a signal that something else is going to follow downstream?

>> I think we're sending them a signal that we're a community that is pro business, pro jobs and that good things will come to any sort of a municipality that drives that as a part of their agenda.

>> So this is part of a stream of decisions on our

-- stream of decisions on our part that are pro business enough that they will feel like they'll be in good company, we'll be doing this with other companies later and they're going to be part of a

--

>> a growing economic

--

>> a grow economy.

>> That's right.

>> A lot of players in similar markets, helping downstream.

>> Yes.

>> I would argue that the talent pool will continue to be good, if we continue to feed it with incentives program. I'm not saying it's a good idea or bad idea, only that might be what's going on to some extent in the heads of the people you were working with.

>> Quite possible.

>> Thank you, sir.

>> Mayor leffingwell: Okay, just a follow-up on that a little bit, because I'm sure I misheard you. The incentives from the state of texas are \$5 million, total \$5 million from the state of texas. Correct?

[14:36:03]

>> I believe it was 300,000 from the city, 700,000 from the county and about 2 million from tef, if I recall correctly, for a total of 3 million, but

--

>> mayor leffingwell: We're going to have to get that verified. 5 million from the state, 680,000 over ten years from the city of austin.

>> I believe it was 300,000 from the city

-- on, you're talking about hid.

>> Yeah.

>> Mayor leffingwell: I'm not talking about this one. I'm talking about this one. But I think the point I wanted to make is that relative to the local incentive, the state incentive is much greater. And this is typical. And the state's attitude, of course, rightfully so, they want to bring jobs and economic development to the state of texas, but their requirement is that they have a local sponsor. In our case it happens to be us, so we make relatively a token contribution to this, which is cash positive for our taxpayers, in return for leveraging that entire amount, that \$5 million from the state of texas. And, you know, if it's not us, you know, other localities that could do this are round rock or cedarpark or san antonio or dallas or houston. Doesn't matter to the state of texas. They're promoting jobs for the state of texas. So if we want them here instead of other places in texas, if we want the state to put their \$5 million in austin, we have to rise to this occasion. All right. David mitliff? Hans ericson, hans ericson. No? Jim o'quinn?

[14:38:03]

>> Good evening, jim o'quinn with our lady of guadalupe catholic church and austin interfaith. Austin interfaith is made up of over 30 institutions in austin, and roughly to 50,000 constituents. We want to take this time to publicly recognize the austin city council for voting in the new economic incentive ordinance, and we understand this benefits both the city of austin, workers and the companies. And we also understand that based off the web loci results that these incentive deals are a net positive for the city. However, we do have some questions about the construction component of this. We recognize that this incentive deal is also grandfathered in, and we also understand that the city has a right to consider all factors when evaluating the proposal. The construction aspects of the proposal are complicated. It's not clear yet how these will be handled, and so please consider the following: The overall construction of the seaholm facility is governed under a unique set of rules and austin interfaith recognizes that. Athenahealth may choose to have all construction projects managed under those terms. If they do so austin interfaith won't object. However if part of the owl all of the build-out space is contract thed by athenahealth we'd ask the city council to request they voluntarily agree to the higher of \$11 an hour prevailing wage, require workers' compensation insurance, comply with the osha standards that are specified under the new rules of the economic incentive agreement. We were led to believe that in general these issues were minor for finishing out a rented space. We'd be surprised if they were a deal breaker. Number four, if athenahealth is unable or unwilling to voluntarily comply we ask that they answer the simple questions contained in the exception process request form develop under the new process that the city council consider their answers when deciding whether or not to approve the

proposal. Athenahealth seems to pride itself upon being a good corporate citizen. It is puzzling that they seem to be insisting that they have the right to pay construction workers wages below the local standards for finish out work that they may contract independently. We would not be surprised if they would voluntarily agree to comply. If it were clear that the major work is done by the seaholm developers and is not an issue and they realize that using workers from an approved apprenticeship program complies with the prevailing wage requirements is economic -- prevailing and complies with the workforce development. We must point out we're surprised and disappointed that incentive dollars are being needed to attract tenants to the seaholm facility. However, the jobs are clearly good ones, assuming that athenahealth can staff 90% of the 607 physicians with local hires without impacting businesses already in austin, those jobs command an amazing salary of 132,000, an average salary of 132,000, and the benefits specified are excellent. We would not object to the economic development department and the city council's judgment and use of these dollars of the construction aspects are addressed. Thank you.

[14:41:26]

>> Mayor leffingwell: I had a question for you.

>> Sure.

>> Mayor leffingwell: You said you understood that this project and others were grandfathered by the latest action by the council.

>> That's correct.

>> Mayor leffingwell: But you're basically asking the council to disregard its action to grandfather

--

>> no, we understand that you can place judgment when you do these economic incentive deals, so we would ask you to ask athenahealth to pay \$11 an hour or prevailing wage, whichever is greater.

>> Voluntarily.

>> Voluntarily.

>> Mayor leffingwell: Next speaker is

--

>> thank you.

>> Mayor leffingwell:

-- carlotta garcia.

>> It's mine.

>> Okay. So that's all the speakers that I have signed up for this public hearing that want to speak.

Council member martinez?

>> Martinez: Thanks, mayor. I do want to ask staff if they can respond to some of the points that were made about construction finish-out. I realize this is a grandfathered 380 agreement because it was in queue before we adopted the policy. But as I read it, they are voluntarily agreeing to many of our newer provisions, and I certainly want to recognize them for that. And I appreciate that, because I met with them this week and I said that to them. But I also asked them about these other points as well. And so can you briefly walk us through the construction phase of this finish-out and whether or not this is under the mda with seaholm and john rosado or whether or not a then al be doing the contracting, and then

how mbe/we applies because under the seaholm mba, I recall this was the first deal we attached the mbawe contract.

>> Rodney Gonzales, deputy director for the city's economic development department. Right now there's no set decision by AthenaHealth as to where they would locate. They've got their eyes on Seaholm but they can locate within the central business area or downtown. And there is no decision from Athena to locate in Austin. They do have incentives on the table from Massachusetts and Georgia. That being said, they have not finalized any type of agreement, if you will, with John Rosado or any type of land board in Austin. So with regard to like the tenant finish-out, that is not known yet. If, for example, they did choose Seaholm, then of course John Rosado has an opportunity to do the tenant finish-out for them or they could choose somebody else to do that tenant finish-out for them. So it's really not an easy question to answer because they have not set their eyes on Austin completely, and they have not set their eyes on Seaholm completely. And as the mayor pointed out, this is a grandfathered company meaning they were not obligated under the grandfathered conditions to meet \$11 or a prevailing wage. It's not easy to answer because they haven't made their decision yet to come to Austin or where exactly they will locate in Austin.

[14:44:40]

>> Martinez: So when I met with AthenaHealth, I guess it was earlier this week, I really don't remember, Rodney, it may have been last week but I think it was this week, we talked about how much further they might be willing to go, and at that time they felt like that what they've offered in terms of complying with some of the new provisions in the economic development policy, that that was about as far as they could go. So I want to ask, have they rethought that position and are they willing to voluntarily agree to any other of these new provisions?

>> You know, and I think that's a question for the company, because as you've mentioned, they thought through this, and they have their thoughts with regard to the wages that you were asking. And we've got Dan Haley here from the company, and I believe, you know, they definitely are ready to speak to that.

>> Martinez: Okay. Great.

>> Hi, Dan. Thank you for being here today. As we discussed the other day in our meeting, you know, we kind of walked through what I thought were going to be some of the issues and concerns leading up to tonight's vote, and so I'm only going to focus on that one aspect of the wage issue, and wanted to see if you

--

>> and I can address that very forthrightly. We got a preview of some of the concerns that the interfaith alliance raised. They were the same concerns that several of you raised in our conversations with you. We went back and did analysis of what it would mean to commit, if we were to separately contract to do a finish-out. We understand, again, as Rodney said, if

-- if Mr. Rosado were to do a finish-out, he's already got an existing agreement with ser parameters built in. But

-- certificate parameters built in. But if we did our own finish-out we would agree to pay the \$11 living wage, and we, in fact, had our attorney meet with the city attorney this afternoon and build that

requirement into the agreement.

[14:46:47]

>> Martinez: And so did you have any conversations amongst yourselves about prevailing wage and are you aware what that is?

>> I am aware of what that is, and that's different. The financial implications of that are different. Based on a

-- a very top-line analysis. The implications of agreeing to prevailing wage could equal a net financial impact in excess of the

-- of the incentives payment. And so we would not be in a position here to agree to that, because that would essentially

-- that would impact the financial calculus in a much more material way and we'd have to redo a lot of

-- a lot of the

--

>> martinez: Would you be willing to continue that conversation as we move forward, if it's something you're going to go out and contract on your own to determine that impact on your project or whether or not that is something you can agree to?

>> I'm not sure what you're asking. I can't agree to that here

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>> martinez: What I'm asking is wherever you decide to go, whether it's in seaholm or somewhere else, if you decide to 100 contract out, would you be willing to sit down and see if the financial impact to your project is so insignificant that you'd be willing to comply? What we're finding, dan, is it's minimal. It's 5% on a project. We're not talking about an additional, you know, 20, 30% cost, but it is substantial to those few that it impacts because it takes them to a very competitive wage market.

>> Sure, and so council member, what I'd say is we certainly have an interest in

--

>> martinez: I know you do

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>>

-- building and maintaining positive relationship wherever, the city, wherever we locate, with the workers in that city, with the government in that city. So while I cannot commit to anything specific in that regard here and certainly couldn't build anything in that regard into an agreement that's been negotiated over the course of several months, I certainly wouldn't say to you, no, we would never look at the issue again.

[14:48:53]

>> Martinez: I guess what I'm asking you, would you be willing to come back and sit down with me in my office and talk this through and see if we can find out if there is a substantial financial impact? There is

-- I'm not tying anything to that commitment other than a conversation moving forward, because I did

-- I did get the sense from you in our meeting that you absolutely do care about the workforce that

you're impacting, you care about your community. And so I'm asking would you be willing to continue that conversation with me moving forward?

>> And just so I'm clear, are you asking if we'd be willing to have that conversation in advance of a vote on this package or

--

>> martinez: I'm trying to get to a point

-- as I said the other day, I think, you know, overall I'm comfortable with this. I think there are, you know, some issues that you're going to have to address, not from me but from others on the dais. I'm just trying to just push the wage issue a little bit farther. That's one of the things that

--

>> I understand, and of course council member, we would be very pleased to come and have a conversation about virtually any subject, if we end up coming to austin, which we are hopeful that we will end up doing.

>> Martinez: And I do

-- as I said earlier, I do want to recognize what you've already voluntarily agreed to comply with. That isn't insignificant to me. It means a lot, that you've taken a look at our new policy and you've said, you know what? We don't have to do this stuff, but why wouldn't we do it? And in some cases they are -- they are benefits that you don't currently provide in other cities. And so I really do appreciate athenahealth. And while I do share some concerns that I've heard about this being a public space and us wanting to ensure that the public still has access, you know, we had those conversations the other day, I think I'm going to be supportive overall. I'm just going to wait for the conversations and debates to take place.

>> And I'd be happy to answer any further questions.

[14:50:54]

>> I appreciate you agreeing to an additional provision and that is the \$11 per hour for construction.

>> Thank you, council member.

>> Cole: Mayor?

>> Mayor leffingwell: Mayor pro tem.

>> Cole: I have a couple of questions of rodney. First, rodney, I want to clarify that the state level incentives are only available if we improve

-- approve a local incentive program.

>> Yes, mayor pro tem. Today we actually talked with clint harp and clint harp is the developer or the business director for the state's enterprise fund. And clint was very clear that in terms of local incentives, that means 50 or county that provides those incentives. And the state doesn't have any type of precedent with regard to any other agency providing the local incentive. So the local incentive has to come from either the city or the county.

>> Cole: Okay. Because we did something difference with f1, I want to you explain the difference between what we're doing here and

-- versus what we did with f1, because I think that is in some people's mind in the public.

>> Yes. With regards to the major events trust fund, which is the state mechanism that we used for f1,

the state did allow, and they do allow, agencies to pay on the city's behalf the city's contribution. There's a big distinction, though. When they pay on the city's behalf, they get that money back from the state. In this case, the question that you're asking, whether or not an agency can pay on behalf of the city, they would not get that money back. So they would lose that money. They would still get the state money if it were allowed, but they would lose that local match, if you will, so that isn't allowed. That's a big distinction between the current program and the major events trust fund where circuit of the americas pays on the city's behalf approximately 4 million per year. However, they are allowed to get that \$4 million back plus the state match.

[14:53:06]

>> Cole: So in this case I want to be absolutely clear, that the local incentive package must be paid by the city in order for us to receive the state level incentive, and it cannot be paid by someone else, the developer, another group. It has to be paid by the city.

>> Yes, ma'am. The state has no precedent for any other third party paying that city amount. And, you know, there is one report I'd be glad to send it to council as well. The 2013 legislative report that was done for the state enterprise fund, and on there they cite the 26 contracts that the state implemented between january 2011 and december 2012. And in each one

-- in my copy, it says the incentive provided by the local government. So doesn't say provided by any other third party. It says provided by the local government.

>> Cole: Okay. Thank you, rodney. I have truly struggled with my decision on this vote because the agreement contemplates spending roughly \$60,000 per year for the next ten years, which we will receive an immediate sevenfold match from the state, and will be paid only if the company delivers 600 jobs as promised, and invests \$7 million for the improvement. Thanks to the analysis that has been provided, it's clear that we have a positive return on investment, and we'll have new tax revenues of about 1.7 million over ten years, just to the city alone. And yet I struggle with this, mainly because of the place where the proposed company is going. While the item before us is not about seaholm, the development, and several people have tried to separate these two issues, the issues still become interrelated in my mind, and I want to recognize the testimony of mr. Paul robbins and brian rogers, because the seaholm development has received an extraordinary amount of city subsidies with the hope that one day it would be a publicly accessible space and a cultural amenity for the entire city. In 2005 the decision was made by previous council to award the building and the adjacent land to a developer who proposed to do publicly accessible retail on the ground floor of the power plant building. In 2012 this council was told that the project was in duress and was asked to amend that agreement to allow exclusive office space including in the turbine hall. In return the developer offered longer terms of affordability on the proposed rental housing on-site. Subsequently, the residential tower converted to condos, which did not have an affordability requirement at all. So this is where we find ourselves today, with the option of incentivizing a use that we never intended for the power plant that we heavily subsidized on the belief that we would be getting a publicly accessible amenity for the city. Now that the seaholm development is just simple office space, it should rightly be evaluated by some of the same return on investment

-- on investment analysis that we have done with athena and that we've done for other companies. So in

the past week in my discussions with staff they are prepared to do just that, and so as frustrated as I am with the lack of public benefits from the seaholm development, I will not use that as a reason to hold up the transaction before us today with athenahealth. So I would like to move approval, mayor, with a few amendments, which I will pass the yellow copies down on the dais. The first amendment strikes the language that specifically requires athena to locate at seaholm. This would allow the company to locate there but it is not required by us to do that. And that is on page 114, and it simply says that the company shall expand its services in the central business district, and strikes seaholm development. The next amendment was requested by the lgbt chamber of commerce regarding the protections for the employees on matters of identity and sexual preference, and it says that the company shall adhere to its equal employment policies and practices and adds the language "and ensure that such policies and practices protect employees in the it service center from discrimination based on sexual orientation and gender identity." The last amendment that I am supposing is on -- proposing is on page 8. And as council member martinez has discussed with the company, it is an amendment with respect to the construction worker requirements. It adds a requirement for paying \$11 an hour for an site construction work consistent with our new economic incentives policy. And it basically says that the company agrees to pay and shall require contractors to pay workers retained for any construction on the project described in section 101, including remodeling and leasehold improvements, a minimum hourly wage of \$11 per hour, a statement of annual compliance shall be signed and notarized by the party identified to demonstrate that the requirements have been met and the company shall provide a contact person responsible for monitoring and enforcing the company's requirements. So, mayor, that is my motion with my amendment.

[15:00:06]

>> Mayor leffingwell: Motion by council member cole, and I will second. And for purposes of discussion, and I would like to ask the company's representative, I believe you've already addressed -- you're familiar with the changes. You have a copy of these changes. The first one being on page 1, which seems reasonable to me. Just broadening your opportunities for a location. The second on page 4, paragraph 103c, adding the sentence with -- that relates to discrimination based on sexual orientation. [One moment, please, for change in captioners.]

>> web loci as you know we've used it since 2009 and that was at the direction of council. I might self personally led a group of stakeholders, including bryan, as he had mentioned, for what fiscal impact tool the city should use. And web loci was introduced to us by bryan kelsey, the economic director for capcog. And bryan had used it at capcog and introduced it at travis county. It's a very good tool, very conservative in its use. For example, bryan had mentioned the number of households to be developed, the number of employees outside of austin and inside. Clearly athena health has said that it is their intention to hire 90% locally. The number that we used in our system is based on current census data that says 40% of austinites -- austin jobs are occupied by austin residents so we use that very conservative number. So that's why you see that split and that difference in the reports that we have because it's very conservative. The other thing is we use standard depreciation for investment so we don't hold the investment value at the

same level throughout the 10 years. We have a depreciation for that and we don't use multipliers as well that you find in remy and implant. And very significant for web loci that you don't find in other analysis models is this is a fiscal impact tool, meaning that we compute the revenues and we compute the cost. Typically what you find that other economic development agencies use are economic impact analysis which only compute the revenue side of the equation. So I wanted to go through that first before I got into the other piece of the capital and then I think this one slide is going to come up. We have two profiles that we enter into web loci. One of them is static and it's called the community profile. Bryan had shown the page from that community profile. What we enter in that community profile are the most recent actual data numbers from the city of austin. As you all have seen the budget numbers aren't the numbers that we should be using because we don't usually hit the budget numbers 100%. So we put in the most recent actual. So in this case the most recent actual are 2012 and 2013. I think align hart was up here early and she mentioned next week they will be getting a presentation of where the city came in comparison for actual budget. So from air perspective it's better and more conservative to use the actual numbers as opposed to budget estimates, which are what they are. They're estimates. So we want to use the actuals. I want to point out over here on local government expenditures the right-hand column. Education operations. You are not the school district. You are the city of austin. So when bryan mentioned earlier four million dollars of capital I think you saw that there's a two-million-dollar cost on there that was public schools.

[15:04:50]

>> Spelman: That was the majority, yes.

>> Yes, that was the majority. You are not the school district so we do not have educational -- expenses in this equation. The other thing was that if you were the school district you would also show the associated revenues for that as well, which you don't show. With regard to capital costs, the capital cost that you have currently, the debt associated with that, is for current expenses that you have paid for previous decisions that you have made. Unrelated to the proposal that you have in front of you. So the taxes that athena pays, and they 100% will go into the general fund because we're using the special economic incentives fund. So 100% will come to the city from what athena pays. And of that capital the other important thing that is when they pay those taxes, that is new tax revenue to the city that does not impact your effective tax rate. So annually when the finance department computes your effective tax rate, they look at the money that the city collected last year and they hold that same money to the city and then you get your effective tax rate. Any new investment that the city receives is new money and it doesn't go into your effective tax rate computation.

>> Spelman: Not this year, but next year it will.

>> Not the current year. In the current year that you receive that new investment it does not impact your effective tax rate.

>> Spelman: Sure. But it will

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>> it will

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>> Spelman: It won't stay that way for 10 years.

>> No. It does get folded into there eventually, it does. With regard to new capital I think you you all recognize this that new capital is traditionally done by bond referendum or voter referendum. So the city has an option of either when your debt service rate falls off the new debt can be issued to maintain the same debt rate or the voters can choose to increase their debt rate, take out for new capital. Once again, athena is paying 100% of their property taxes. So any new debt that the city issues as a result of voter referendum they will be paying 100% of their tax rate to the city.

[15:07:07]

>> Spelman: I guess what I'm getting at is we've got two sides to the web loci results that I usually see. One is the benefits side, which is how much new revenue comes in, not only from athena health directly, but also from the people who athena health hires. The sales that they make and the taxes we get from that, the houses they buy and the the property taxes they pay from that and so on. On the lower side of that printout are the costs associated with athena health as a corporation and also with the people that they hire, their employees, who sometimes call 911, who go to the library and swim in our public pools. And it's my understanding that that lower end estimates -- roughly at least, what the additional cost the city will have to bear in order to provide services to athena and its employees. Is that accurate?

>> Yes.

>> Spelman: It seems to me if we were going to have more people we're providing services to we can measure it either two ways. If you're measuring a marginal cost and say we're going to fit more people into the same buildings, the same pools, the same infrastructure. But at some point we get enough people where there's a big enough lump we'll have to have more infrastructure to serve them. I think bryan's point was that it makes sense for us to include the capital costs of each of -- at least each of our general fund agencies and I suspect through our rates we're already building the capital costs of orients funds into that. So let's figure the enterprise funds and build the capital cost into our expectation for the total cost of athena health and its employees being located here d that make sense?

>> That does, but then you have to look at the revenue equation as well, which is that if new capital costs come on, are we to presume that a new tax rate or the tax rate isn't increased to account for that new capital costs? Or that the revenues that athena pays that currently these are new tax revenues, there's already an excess in here and that excess wouldn't be used to pay for those capital costs. Spell sounds like we'll have to have an offline longer conversation about this before I can get my arms around it. Bryan's first point holding aside that big long bar for the schools, which obviously has no bearing on this particular transaction, if we're going to have more -- eventually if we're going to need more pools and libraries and fire stations to support a larger population and this is going to be creating a lytlely larger population, we ought to take that into account. What you're suggesting to me is we're actually doing that and I'm not used to that yet. Even if we're not, the good news is that the percentage of on you are total general fund, which is infrastructure, is about 15%, 85% is operating cost, 15% is infrastructure cost. Even if we increase our total cost to account for infrastructure and other capital stuff, as bryan suggested, we're still net positive for the general fund as in fact we are net positive for all of our enterprise funds. So it doesn't change the final result it makes

the margin a little bit thinner. But I wanted to see whether or not we were including that because it seems to me that even a slightly thinner margin, it is more honestly reporting our total cost and benefits seems to me to be a good idea. It seems we're already doing that and we'll have a longer conversation about it later.

[15:10:49]

>> We can. But even if we went to that extreme conservative measure as you've mentioned it would lower our margin if we went to that extreme conservative measure.

>> Spelman: I did the math on this and may as well report it. It looked like the margin was about 64% for the general fund. We're taking in 64% more than we would have to be paying out. That's the margin on this particular transaction from the general fund's point of view. Even if we increase the cost as bryan suggested, that margin is only thinning to about 40%. So there's a comfortable difference between how much the general fund gets and how much the general fund has to pay out. Of course the enterprise funds are more or less even steven, there's a thin margin on all of those as well, which is positive.

>> Sure. I wanted to bring up another point and that is public works was missing from this equation. You may recall that the transportation fund accounts for the costs associated with public works. There's a user fee for that. It's netzero, similar to the utilities, they pay their own way, the transportation fund pays its own way as well.

>> Spelman: We're not talking about debating any of athena health's transportation costs?

>> No, they will pay 100%.

>> At least now and this transaction I can be sure. Other transactions we'll have to have a conversation about whether to include capital costs, but on this one I can be assured that athena health will be cash positive for the city. The city will be better off and by extension our taxpayers will pay the same or lower property tax rates, will bear the same or lower cost because athena health is here than they would otherwise.

>> Yes.

>> Spelman: Thank you.

>> Mayor Leffingwell: Councilmember morrison.

>> Morrison: While you're there, I have a few questions. First to go back to your comments in answer to mayor pro tem about could somebody other than the city or state do the local match. And you said there was no precedent for that. Are you familiar with the state law, does the state law actually require that it be city or county? Because I didn't hear you say no, that wouldn't comply with the state law.

[15:13:03]

>> We don't have the state law. We've requested it of the state. We understand that it's promulgated by their administrative rules for the texas enterprise fund and so we've requested that. But the business director for the enterprise fund has told us that there is no precedent for that occurring. It's certain that it has to be the city or the county.

>> Morrison: State law doesn't explicitly prohibit it. It would just be a matter of how the rules are implemented?

>> Yes. It's my understanding it's the administrative rules.

>> Morrison: That's different than state law.

>> Okay. You're still looking into that, a bit of an open question.

>> Yes.

>> Morrison: And I know you did a survey and I appreciate you doing that and all the folks that

-- all the companies that we're willing to participate that talk about who was

-- what percent of their employees actually lived in the city and these were companies that had done

380 agreements and we found quite a disparate answers. And clearly the ones downtown were up in

the 96%. The ones on the edge of town were more like 40% or maybe some went even lower. Have you

ever thought about when you have information, for instance, that if athena health comes under this

agreement they would be downtown, actually shifting the inputs to web loci to reflect that fact?

>> Councilmember, as I mentioned there are two profile budgets. One is the community profile and all

those inputs are meant to be static meaning they're meant to cross across projects and they stay the

same. We have a project profile which does vary from project to project. That specific census data

information is on the community profile and it's not meant to change until the census data is updated.

Fortunately that census data for that particular information is updated annually. So if we were to change

it, then it wouldn't just apply to athena, but it would be applied to every single project that we have ever analyzed in the system.

[15:15:15]

>> Morrison: I have a feeling there's another staff comment that we're going to get.

>> Natalie best with the economic development department. I want to add that the jobs that we

-- the new people that we are assuming into our economy based on the web loci are not just those

employed by athena health. We think it's better to use the average demount in terms of how many live

in the city versus in the surrounding area since some of these new people-- some of these new people

are going to be employed directly by athena health and some are going to be employed by other

companies that have job vacancies created.

>> Morrison: And web loci is actually capturing information about the the direct new employees and

the indirect follow on businesses that get done. I get that, right. And I suppose you're going to say the

same about when we have a company that says the intent to hire 90% local, that that's not necessarily

something you can reflect one way or the other project to project in web loci either.

>> Exactly. That's why we do not use their local hiring percentage as an input to web loci because even if

they are hiring locally they're probably hiring from another person who is currently employed by

another company creating a job vacancy. And that's the job chain effect that web loci uses. Yes.

>> Morrison: Thank you. I appreciate it. And I guess I want to comment that I want to thank the folks

that I've spoken with over the past week from the seaholm developers to the chamber folks to the folks

from athena health. As I mentioned before I think you're a great company. I'm very excited to hear

about your projects in the older buildings that you're working on in watertown, is that what it is, and

atlanta. That's been very exciting and the idea that

-- I understand that if you were in seaholm you would treat it with great respect. So I very much

appreciate that. I do

-- we have these questions about well, if it's cash positive we're only going to do it if it's cash positive, it's not costing anybody any money. On the other hand, if they come and they're not paying incentives, it's even more cash positive. So I think we just need to keep that in mind and ask that question of the but for. And that's where I get to the issue of is this really the thing we need to be doing at this time. I understand and I appreciate mr. Multiple liens, he spent some time on the phone telling me his perspective about we need to work the hardest when we're the strongest. But I do think that the other perspective is the other thing I can say everybody has incentives on the table. We have to play that game too. And it makes sense if their incentive is on the table a company should ask for them. They would be leaving money on the table if they didn't. But I do believe that it's okay for us to say we believe in our economy, we believe in the strength of our economy and we hope that you come here. But we need to be very, very careful with taxpayer dollars. But if we can stand up and say that, I do hope they come. I don't think it means definitely they won't. I think there will be a decision. But it is a different world that we're in and I think it's time for us to say very very much would love to have you here. I don't think incentives are the way to do it so I won't be supporting the motion.

[15:19:02]

>> Mayor Leffingwell: Any other comments? Councilmember riley.

>> Riley: First I have a question. I guess it's for rodney and that relates to the amendment that we're considering now. The language says the company shall expand its i.T. Services center in the central business district. I want to make sure I understand we all understand what that means because it can mean different things to different people.

>> I guess it can mean different things to different people as we found out today.

>> Riley: I don't believe that seaholm has cbd zoning, I think it's d.M.U.

>> You're right. We've partnered with brent lloyd and you understand that brent is a legal attorney and very familiar with the city's zones and districts and he has confirmed that for this definition that the seaholm power plant would fit within this definition of central business district.

>> Riley: Would be considered central business district.

>> Yes.

>> Riley: Great. I appreciate the concerns that councilmember morrison articulated and many in the community have voiced about the application of incentives in this instance. It's true that our economy has been doing very well. I totally understand people wondering why in the world we would need to provide incentives at this time of austin's history when we are doing so well. And I agree that we need to be cautious about the way we employ incentives. In this case I think that these incentives pass whatever test that we could apply. Principally that this is a very strategic addition to our local economy and we had great testimony on that tonight. We had one speaker point out that health i.T. Is where we're heading. When voters in this area approve the establishment of a medical school it was with the expectation that we would be having significant jobs added in the health sector and this is exactly the sort of addition to our health sector that we would have expected from the establishment of a medical school and teaching hospital. It will also be a very helpful buffer against the economic downturns like we have around 2000, 2001 in that this

-- health care, the health i.T. In particular is not as tied to the economic cycles as other industries are.

Because even people are still going to need health care technology even during times of economic distress. And I also like the idea that this nourishes or tech ecosystem. We had great testimony on that tonight about how this

-- about how having athena health here would clear a path for local start-ups. It would be a great source of talent and would play an ongoing role in supporting the flourishing tech sector as part of austin's economy. So I think the very helpful fit, helpful addition to our local economy. Location is also very critical. I'm very glad to see this sort of addition to our urban core, whether it's at seaholm or elsewhere in our urban core. I shared many of the concerns that people voiced about the use of seaholm. I took the time to go over and take a tour of seaholm just this week to see what it would look like if they do go there. I realize it's by no means certain that they will wind up in seaholm. I want to be sure that we will still be proud of what we have done there at seaholm. I am satisfied that we will. In fact, it's

-- if they wind up there I think this drew us to this place we'll be very impressed at what they see. There actually is a very impressive public presence in seaholm where that they're contemplating with this plan. Etcetera a fair letter large deck overlooking the chamber there in seaholm. It actually

-- I think people will actually be very pleased if that winds up being where this company lands. Finally this is a very modest investment that we are making. The dollars at stake here

-- I totally understand the concerns about the size of economic incentives that we have awarded in the past. We're always hearing about-million-dollar handouts to companies. This is not on that scale. Next year in the first year of this agreement our payout under

-- assuming they hit all their targets, our total payout for the year will be \$8,750. 8,750. That will grow from the next year to 16,000 and assuming they hit all their targets, that would be \$25,000. Every year they the amount we're paying them will actually be more than offset by the property taxes alone that this company will be paying as a result of their investment here. So it is a very modest investment. It amounts to something like \$67,000 a year over the course of 10 years. And I think for all the reasons I've set out, that that investment will be worth it. I support the motion.

[15:24:28]

>> Spelman: Mayor? You should thank councilmember riley because he said what he said, I agree with everything he said, you don't have to listen to me say it too. [Laughter] cole.

>> Tovo: Mayor. But you do have to listen to me. [Laughter] I want to say I support using incentives judiciously. I think I support

-- I support using incentives even in times of high growth and popularity as austin is currently in, but I agree that butt for test should always be forefront in our evaluation of these decisions. And for me I am not persuaded that this particular proposal meets that butt for test and that athena health would go elsewhere if not provided with these incentives. So that's one reason why I'm not going to support this. The other is that I believe seaholm should be a public building. And I do appreciate the vision that athena health has talked about in terms of how they would occupy that building and how they would do as much as they can to have it be an open space with the community. And you offered good examples when we spoke of how that has occurred in other venues, but for many in this community, the vision of that building was that it was going to be a public building and we do have a significant public investment to fulfill that grand vision. I cannot bring myself to support providing incentives for an office to locate

there in the seaholm building. I appreciate, I do

-- I want to echo my colleagues' thanks to athena health for voluntarily complying with some of the provisions. That says a lot about the company you are. I enjoyed our conversation and I am really impressed by community

-- by the company for lots of reasons you described. It sounds to me like athena health is an exciting and growing company with a vibrant and creative workforce. I think austin is a place where we have lots of creative and talented people. I think athena health is a good fit for austin and I think austin is a good fit for athena health. I hope you will be here, but I will not be supporting today's prosecute proposal.

[15:26:46]

>> Cole: Mayor, I wanted to follow-up on a couple of the comments that councilmember tovo made. First the concern that I've expressed earlier about seaholm and its public accessibility. I understand that the company has made some commitments to do public tours. Will you come forward and talk about it a little bit?

>> Thank you, mayor pro tem. Generally speaking we very much appreciated the opportunity to interact with all of you, to hear your concerns and the concerns your constituents. With regard to public access tours, that is absolutely something that we would be willing to do. We do that in our other locations. I can say our actual space where our folks sit and work isn't all that interesting, but one of the wonderful things about the place where I work is we firmly seek to locate in beautiful spaces with a lot of character and then we affirmatively seek to create public interaction within those spaces so we don't co-opt them. So tourists, absolutely that's part of it. And I think all of you will be pleased if this ends up happening with the various manifestations. I can't guess what they might end up being at this specific location, but in other specific areas where we've located, just two days ago travel and pleasure magazine named pont city marketplace in atlanta a top new tourist destination in the country. And that's a building very much like seaholm, and old historic building that has been converted to office space. But under our leadership as an anchor tenant, the public amenities that have been built into that space have travel and leisure saying it's a wonderful place for tourists to come visit, never mind the community that will be lucky to live and work around it that building. I probably rambled too long, but this is a subject I love to talk about. As you know we've met with in the last

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[15:28:50]

>> Cole: I'm very pleased that you are making that accommodation and I will give the additional direction for staff to work with you, the details of making that happen. Hopefully we will end up in magazines not just for tourists, but also for our local residents. I also would like to ask our economic development staff to come to audit and finance committee and review the seaholm development in greater financial detail and I will simply put that on the agenda for that to happen. A lot of those questions have come up tonight.

>> We will be pleased to do that.

>> Cole: Finally I want to thank austin interfaith, athena health, the chamber and all of our staff and all

the stakeholders and people who came out tonight to express their support as well as their concerns. It is with pleasure that I think we are moving forward on this, but moving forward cautiously and understanding that this is major decision for our city. Thank you, mayor.

>> Mayor Leffingwell: So with regard to the public tourists I would already say that I've been over there. I don't think I want to go back, so if anybody wants to have my spot on the tour, be my guest. [Laughter] it's a big hole, big deep hole there. [Laughter] and I wanted to ask you for no really good reason, where in atlanta did you say you were located?

>> The facility now is called pont city marketplace?

>> Mayor Leffingwell: What part of atlanta is that? Is it in the city of atlanta?

>> It is. It's the

-- originally it was the sears & roebuck distribution center for the whole region.

>> Mayor Leffingwell: I was just curious. Thank you. All in favor say aye?

>> Cole: Mayor, and that motion was on all three readings and to close the public hearing.

>> Mayor Leffingwell: Right. All opposed say no? Passes on a vote of five-two on all three readings with councilmember tovo and morrison voting no. So we'll go to our remaining item, which is item 40. Before we begin this part, I would like to ask if there's anyone here who has a request of a postponement for this appeal or has a question about issues of standing on this case? Hearing and seeing none we'll go ahead and have a report from staff.

[15:32:15]

>> Good evening, mayor, members of the council. Christine parton holmes, land use review. The case before you is an appeal of a project at little woodrows on 5425 burnet road. They had requested a cop for liquid sales and late hours and a waiver to allow parking within 200 feet of residential uses on this site. And they were rezoned to cs-1 on march 11th of this past year. On december 10th they were heard by the the planning commission and for all intents and purposes were denied. The applicant is the appelliant in this case. They are appealing the decision. There were actually three motions and two votes. A two-three vote to deny, which failed. A three-two vote to approve which also failed. And a motion to postpone for

-- to allow for more commissioners to be there, and that did not get a second. So the applicant is appealing the decision. At the commission hearing commissioner las wreath raised several concerns regarding head in parking on burnet road. Concerns have been raised throughout the review process and they were raised and discussed extensively on the dais. In the interim staff has worked with the applicants on alternative parking layouts which provide for greater safety and I'll defer to the applicant to present the details on that. I will say staff has reviewed the request for alternative design and it does meet code. I believe the applicant has a presentation and there are also several people here from the neighborhoods to speak on this item. And with that I'll be happy to answer any questions.

>> Mayor Leffingwell: Just for clarification, the conditional use permit went to the planning commission. The planning commission essentially took no action, but that action constituted a denial because they did not grant it.

>> Yes, sir.

>> Mayor Leffingwell: So that kind of sets the stage. So our procedure is a little bit different on appeals.

We've had a report from the city staff. We'll hear a presentation from the appealing party and you'll have to select those who are appealing will have to select someone. You will have up to 10 minutes to make a presentation. No donations of time. Then we'll hear from others three minutes each supporting the appeal. And then we will have a presentation from the responder, also limited to 10 minutes, and then three minutes for those opposed to the appeal and then a rebuttal finally by the appealing party. So now we're about to hear a presentation by the appealing party. Which I assume ms. Glasgo that's you. Oh. So are youic ingel. You have 10 minutes.

[15:35:13]

>> Mayor, mayor pro tem, city councilmembers. I want to thank you very much for your time tonight. I would like to try and get the presentation up on the board here. We've been working on this project for over two years now. I've been before you before. And we are very, very excited about this particular location. We've spent a lot of time with both naked that surround it, allendale and brentwood, addressing and trying to come to agreement on conditions. And we feel that we've addressed successfully all of the conditions and the concerns that there have been along the way to this project. As you're seeing the site here is located at 5425 burnet road. This is one of the more growing and developing neighborhoods in austin right now. There's a lot of mixed use, there's a lot of apartments, commercial. And retail all up and down burnet road. This section of burnet road has become a very exciting place. Like many of our neighborhoods and developing areas. This site we chose to be a little woodrows because it meets a lot of the requirements we look for and demographic. And in talking to literally hundreds of neighbors who are in support of this project, we're very excited to try and get this over the finish line tonight with you all and we really would appreciate your support. We thank the neighbors, we thank the commission, we thank the city staff and everyone who has worked so hard on this project because we really have rolled up our sleeves on this. And dug deep into all the issues. And out of all the other locations I have, this one has certainly gotten the most attention. So I do want to thank everybody that has been involved in the process. What we're looking at here is the existing site plan. And this site itself includes building numbers one. That is the building that we're proposing or we are leasing and proposing this to be the little woodrow's. Also a restaurant called brooklyn pie which will be open for lunch and on weekends. It does have a kid's menu. It is pizza. And we'll have a game room and very welcome to neighborhood families and people have been really supporting this concept, which is now located at also two of our other locations in austin. So they work very well together and they'll be co-tenants in this building along with an office and storage component which will house our offices for little woodrow's, which consists now of soon to be -- this would be the fifth location in austin. About almost one year ago we came before you for the zoning hearing. And in that hearing we spent a good deal of time again with a select numbers of the neighborhood they were volunteering to work with us on some of the conditions. We visited with the hoh or the neighborhood association, that is, and got involved with them early on on the project. At the zoning hearing itself, mayor pro tem and some of the designees from the neighborhood, including also the owner of the property and myself, sat outside and worked on these specific conditions which were read into the record for the zoning. I wanted to just cover some of these right now so that I could just vj them with everybody and refresh your memory since it's been so long. The area itself to be designated

cs 1 has been reduced to 5,440 square feet and the new metes and bounds description has been attached to the ordinance itself. Items to be addressed at the conditional use site plan phase by the planning commission would include the total area that may be used by the applicant as a cocktail lounge must meet the land development code parking requirements, which it does. The neighborhood has not agreed to waive parking ratio requirements, but has agreed to support the variance to permit parking within 200 feet after resident zoned sf 6 or more restrictive covenant active. We were asked to include a one way only off clay from the drive aisle on the north side of the buildings running east from clay to west along burnet road and we did include that in the site plan which I will show you next. And employee parking only, we designated and we will add signage to the parking on the western boundary of the property, which is accessed from clay. Currently those parking spaces were numbered on the existing site plan, 45 to 52, as employee parking only. Which we have done. We were asked to add a green screen. Actually, we proposed the green screen idea because of some of the concerns that the neighborhood had about site lines and the building as it was situated currently on the site. By building a green screen along the boundary of the property where residential screening is desirable to create buffering of residences on clay and other near brentwood residences. And finally the hours of operation has been a big discussion. And back during the zoning hearing, we with the group of neighbors, mayor pro tem, sat down and we discussed this at length. And we agreed to proactively reduce the closing hours of operation on sunday through wednesday to 12:00 a.M. On thursday to one a.M. Friday, saturdays and holidays our closing hour would remain at two a.M. This was a very large give on the conditions side from our perspective. Currently all of our locations are open until two a.M. Seven days a week and this would be the only location that we had proactively reduced the hours, which we still feel very inclined to do obviously. These were approved in the zoning hearing back in march of last year. This proposed site plan includes all of those conditions that we just talked about. This is what we've spent the most part of this past year working on so we could present this to you today. As you can see along the top it's hard to see, but in your handouts it does reflect exactly what the green screen does go. It shows the one way lane from clay to burnet road. It also outlines the employee parking along the right hand side of the page that's designated employee parking only. And then one of the additions that was brought up by transportation and planning commission is they've directed us to go ahead and remove the back end and/or front end parking along burnet road, which I think we all agree was a good idea. And include parallel parking lots spots. You can see the four parallel spots along burnet road and the hash mark represents pedestrian access that goes in front of those spots so that pedestrians can actually walk along and not necessarily have to walk in front of those cars along burnet road. So it also has the hours of operation parking table. And it has the parking spaces that were required based on the calculations of 31, the parking spaces provided, which is 41 showing in excess parking on the site itself of an additional 10 spaces for code. This is currently the building as it exists today. And if you've ever driven by this site, it actually does have a lot of existing architectural components and things that we really, really loved about the the building, which is one of the reasons we picked it, including the nice beautiful tree in front. The rendering or the picture itself here doesn't do it justice, but the next picture I'm going to show you really does. And this transformation we feel is something that would go very, very well on burnet road. It really compliments I think the landscape of the entire area. As you can see we've preserved the tree that goes up through the middle of the site which would provide a lot of shade for those who are going to be sitting outside and enjoying either brooklyn pie or little woodrow's. It does

depict about an eight and a half foot lane, which is in the public right-of-way, and you can see there's plenty of room for

-- whether it be bicyclists or pedestrians

-- to walk. And it really activates the entire front of this building alongside burnet road. And I think does a wonderful job showing how beautiful this renovation of this building can be. That's my presentation, and

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[15:45:32]

[ buzzer sounds ]

-- good timing too. I'll be happy to answer any questions.

>> Mayor Leffingwell: Okay. We'll hear from others who are in favor. Jimmy Nassour? And you just have three minutes.

>> Mayor, mayor pro tem, council, thank you, my name is Jimmy Nassour. I'm the owner of the property here. I wanted to echo Rick's comments. First and foremost Rick has worked very hard for the last year and a half, longer actually on this site. And I think he has done a remarkable job at trying to accommodate most every request that he possibly could. He's on one hand, he's asked to increase parking, on the other hand he's asked to eliminate parking upfront, but he's done a remarkable job and I want to tell you how much I appreciate that and look forward to having him as a tenant and look forward to having him be successful there. We have some property on the rear side of this tube that really is kind of on the shelf until we can make other parking arrangements because we offered to Rick additional parking after visiting with Councilmember Martinez, who has expressed that the neighbors still have concern that although this property

-- this plan meets code requirements, in fact, exceeds code requirements for the parking to provide as much parking as we possibly can for the site. If you have any questions, I'm happy to answer for you.

>> Thank you.

>> Mayor Leffingwell: Questions? Councilmember Martinez.

[15:47:34]

>> Martinez: Thanks. As we talked the other day in the office about the concerns that the neighbors relayed to me regarding parking, there was at one point you said that if it's necessary at some point you would be willing to raze one of those buildings to add additional parking on the site.

>> That's correct. We have

-- there are two buildings behind this site that are currently vacant. And each building I believe is about four thousand, a little over four thousand square feet. And if necessary we'd go ahead and raze one of the buildings there to accommodate additional parking for the site.

>> Martinez: Can you tell me what would be that trigger point for you to say that that's the direction you would move in?

>> Well, what we're going to do immediately hopefully upon a positive vote here is we'll look for additional parking immediately around the site that will accommodate off site parking so we can figure

use a use for those back buildings. If we're unable to do that we'll go ahead and tear down one of the buildings to provide the parking.

>> Martinez: During the zoning case the two buildings were also discussed and it was agreed by you that they would remain storage.

>> Right now the agreement was storage and there were seven parking spaces allocated. We had one tenant in the building, which we had vacated. The buildings are vacant now. And that's correct, they'll remain storage until we had ample parking to accommodate any other use.

>> Martinez: Current listing for those buildings to be leased, I would assume is conditioned on you figuring out some other way to park tenants because you don't have any parking available for any tenants in those buildings?

>> That's correct. In fact, today I went ahead and notified the property as being managed by tarantino properties and I sent a note to them and they sent a note back to me and I'll be happy to provide you with a copy of the letter they sent to me basically pulling the property off the market until we can -- we have is to have parking before we can put the property back on the market.

[15:49:56]

>> Martinez: I think I have a question for staff on that parking issue. Thank you. So if they move forward and they receive a conditional use permit to operate and all of the parking is dedicated to the restaurant and little woodrow's, in order for tomorrow to get a certificate of occupancy for something in one of those storage buildings is that

-- does that parking requirement have to be met?

>> Yes, sir. Andy [indiscernible], managing engineer, land use review. Yes, sir, they would have to show how they can comply with the parking requirements before we would issue that.

>> Martinez: What are the parking requirements for the existing zoning on those buildings?

>> Today, as I think mr. Nassuor just mentioned, is one to a thousand. If you tried to change it to office or retail it's one to 75. One parking space for every 1,000 square feet.

>> Do we know the square footage of those two structures?

>> According to the applicant's plan he has building 2 is 3,078 square feet and building three is [indiscernible].

>> And about six parking spaces?

>> He has about seven spaces allocated to those buildings today.

>> Mayor Leffingwell: Okay. Next speaker is joe longano.

>> Good evening. I'm really the civil engineer and I'm here for any questions. So I really have nothing to speak about.

[15:51:57]

>> Mayor Leffingwell: Alice glasgo. Pass. Mark warnburg. Pass also. And there's one more... Joseph [indiscernible]. And you know you're signed up for, but you're donating time to somebody that's against.

>> [Inaudible].

>> Mayor Leffingwell: All right. Gotcha. So that's all the speakers signed up for. Now we'll go to a

speaker for those against the appeal. There is an order of preferred people, but I see that [indiscernible] would like to take the lead and get up to 10 minutes. Before you start, mr. Robinson, council, momentarily I'll lay this on the table and approve a motion to waive our rules and extend the meeting past 10:00. Moved by councilmember morrison. Seconded by councilmember martinez. All in favor? Opposed no? And that passes on a four-zero vote with councilmembers spelman, tovo and riley off the dais. So now you have 10 minutes.

>> My rob robinson. I live in the allendale neighborhood. There are a lot of people here who are opposed to this appeal. We've tried to organize ourselves so that you don't have -- you do have a chance to hear our basic points, but don't have to hear them over and over again, I hope. We do have a lot of ground to cover and so because we need to address both the appeal and really the site plan as well we may take some time. As lied speaker what I'm really going to try to do is set the stage for you and let you know what the rest of the speakers are -- will be saying. But I do want to emphasize something, and that is that we are not against development. Austin is growing rapidly. We need places to live, places to work, places to play. And we're not against bars. After the planning commission refused to accept this conditional use permit, many of us got together for a postmortem at a bar. We went to billy's bar, the billy's bar on hancock and burnet road. But you know, there's good development and there's bad development. There are bars you really don't want in your neighborhood. Billy's is a good bar, billy's on hancock. There's another good bar on burnet road. It's actually right across the street from the lot that's in question here. It's called little longhorn. The owners of little longhorn worked closely with the neighborhood and came up with a satisfactory working arrangement when they opened just a couple of months ago. And we worked with them the then there are bars you really don't want in your neighborhood. We don't want a little woodrow's bar. We'll try to show you why it's a bad idea to put that particular bar in that particular location on burnet road and why this appeal is without merit. Before I lay out a list of speakers, I want you to consider with me that this conditional use permit should have been a slam dunk. The city council, you, voted to change the zoning on that lot to cs-1. It was obvious that you were comfortable with that particular bar there. Yet when the conditional use permit got down to the planning commission it couldn't get through. Why was that? Why did some members of the planning commission take a look at that and balk and say no, we can't do that. When you hear the whole story I hope you will agree with the planning commission and I hope you will turn down this appeal. With that we have a number of speakers. Here's what our speakers are going to say. Our first speaker, bill spezman are is going to say there are factual errors in the the appeal and in the way the appellant described it. Then you will hear from representatives of the neighborhood associations local say rather forcely that they are opposed to the cop and the appeal. And we will have a dozen or so speakers with the specific problems that led to our opposition, among them parking, noise, safety, those weird large empty buildings on the lot. The net effect of these problems would be to frankly to blight yet another piece of a really nice inner city neighborhood where modest families can own homes and raise children. Who is going to want to raise their children near this bar? And finally, I'm going to finish -- we're going to finish with some speakers who are going to point out that the applicant and owner have not in fact dealt with us in good faith and are not actually representing the attitude of the neighborhood towards this bar. We'll try to keep you awake. That's all I have to say right now.

[15:58:07]

>> Cole: Thank you. The next speaker is mr. Bill speezman.

>> Good evening, mayor pro tem, city council. I'm bill speezman and I live on clay avenue just down the street from the proposed site of the little woodrow's bar. And what I want to do is to rebut the appeal that is before you. We sent this notice, you should have gotten it, and it's the appeal with our comments on it. And as you can see, our comments are in red and there's a lot of red here. There's more red than black. These are responses to what feel are misrepresentations of the position that the planning commission and the neighborhood with respect to the conditional use

-- the conditional use permit. I'm not going to read all these. There's quite a few of them. But I will go over a few highlights, the first one is that the applicant claims that the site complies with the city of austin development code. However, there's still some pending resolution. It's still pending resolution of the review by city staff. And as an example, there are only three parking places out of the 40 or 50 that are going to be required for this site that are in compliance. Just three out of 40 or 50. And even if they go ahead and reyes one of those buildings that they've mentioned, those parking places are going to be out of compliance too. They're closer than 200 feet to residential property. The second example, the claimant

-- applicant claims that they have worked with the neighborhoods' representatives. This is a little bit disingenuous. The only time that they've worked with us is when they were directed to do so in one case by the city manager and when in another case the city commission members strongly urged them to do so in the course of a hearing.

[16:00:17]

[One moment, please, for change in captioners]

>> fails to meet the conditional use permit criteria and that the applicant continues to misrepresent the position of brentwood neighborhood association and the planning commission in this matter. Thank you.

>> Cole: Bill, let me ask you a couple questions. You talked about you talked about the parking still going to be noncompliant and you said something about three spaces.

>> All the rest of the spaces are within 200 feet of

-- there are some other folks that can talk more specifically about it, but only three of those spaces are outside the 200 feet requirement

-- outside 200 feet from residential neighborhood. So the rest of them are very close to the residential neighborhood. If they raze that building the new pack parking places they create will be within 1200 feet

-- even if they raze places farthest from the residences, they're still too close to the residential neighborhood.

[16:02:20]

>> Cole: Council member morrison?

>> Morrison: I wonder if I could ask staff a question about that and we could get in clear, because as I

understand it they went to the planning commission for two things. One, a cup, and secondly a variance to this very requirement that parking

-- there's a requirement in the code that parking be more than 200

-- parking for a cocktail lounge use, is that it, be more than 200 feet away from a residential use, or sf or whatever, and they were denied b things at the planning commission.

>> Yes, ma'am, that's correct. The parking spaces, the majority of them are within 200 feet of a residential, given the location of the site and the configuration of the lot. So they did have a cup and a waiver for parking within 200 feet for cocktail lounge.

>> Morrison: And we're considering an appeal of both those denials tonight?

>> Yes, ma'am.

>> Morrison: Okay. And can you

-- since you brought it up, the criteria for a cup, could you remind us of those?

>> In a nutshell the criteria for the cup is that they not increase any negative impacts on adjacent existing uses. They need to comply with the land development code and the objectives and the purposes of the zoning district. They need to have height, scale, bulk, setback, et cetera, that's compatible with the uses of abutting site, provide adequate and convenient off-street parking, protect persons and property from flood, fires, glare, and

-- and they may not more adversely affect an adjoining site than a permitted use. [Inaudible] pedestrian circulation including reasonably anticipated traffic and uses in the area and they also may not adversely affect adjacent property or traffic control through the location, lighting or type signs.

[16:04:26]

>> Morrison: Thank you. And can you tell me the section of the code you were reading from?

>> That is in 25-5-145.

>> Morrison: Thank you.

>> Cole: Okay, thank you, bill. Don laden barwell.

>> Council member tovo had a question for you.

>> Tovo: One quick follow-up. The speaker also indicated his opinion that if a building

-- if one of the two buildings is torn down, that the site would still need a waiver from the parking requirement

-- the waiver of having parking in close proximity to single-family. Is that also accurate? That if one of those two buildings is moved to require additional parking, that that parking would also be within close prompt I am ti to the residential

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>> it depends on the use. Right now the billions are listed as storage. The only use that has a 200-foot spacing requirement is a cocktail lounge. So if they were to be used for office uses, then no, the 200-foot requirement wouldn't kick in. It just needs to meet parking requirements as far as number.

>> Tovo: I'm association the question I was really asking, the speaker just, I believe, if I understood him properly us, was making the point that if the two buildings

-- and mr. Engel mentioned there might be a possibility if additional work parking is necessary, that one of the two buildings that is currently contemplated as storage building could be removed to make way

for additional parking. Our previous speaker said even if that happens, that parking would still be too close to the residences, they would still need a waiver of the proximity requirement because that additional new parking would still be in close proximity to residential uses.

>> If the

-- if the additional parking is

-- if one of the buildings were razed were to be used for a cocktail lounge, then yes, it would need an additional waiver, but if it were to be used for the other adjacent office building, then no, it would not.

[16:06:27]

>> Tovo: Okay, so it is -- okay. If one of the buildings is razed and the parking that's created there is used for that, it is still close enough to be

-- fall within that need for a waiver?

>> Yes.

>> Tovo: Thanks very much. Sorry to be so convoluted but you answered my question. Thanks.

>> Mayor, mayor pro tem, city council members. My name is don laden burr well, 30-year resident of brentwood, I'm an architect, and we're representing the steer committee of the brentwood neighborhood association. We agree with the planning commission's position to not approve this application and we want to express our continued opposition to the cup for the following reasons. The fact that the cup requires a variance based on adjacency to houses we've talked about speaks to the inappropriateness of this application. While burnet road is appropriate for mixed use and vertical mixed use and has widely

-- those uses have been widely supported by brentwood along the burnet road and lamar corridors, the specific alignment of roads in this case and the fact that it is immediately across from residences shows clearly the reason why this location should not be considered for this use. When we made the presentation over the zoning, we were told by ms. Glasgow at that point in time that the cup would really be where the rubber meets the road, and I think it's telling that the planning commission did not approve this. The site plan also cannot be made to work without the addition of compact parking, and we know how well that works here in austin with our big trucks and tahoes and such. And we saw this newly discovered dramatic reduction in parking tonight too by losing even more spaces on the site than currently

-- or was then proposed at the planning commission. In addition, as workability requires the abandonment of the office uses leaving two empty buildings on the site, most importantly the owner of this property has actively been trying to rent those adjacent two office buildings, and

-- which would then put

-- if they're abandoned and made storage, the enforcement of this issue would be on the neighborhood, as it always is, and a show of bad faith on the part of the owner shows the problematic nature of this application. If the owner is willing to demo both buildings and close all access to clay avenue, then the viability of the site plan and the protections to the neighborhood could certainly be discussed, but that's not on the table. In summary, the application does not meet the criteria of an acceptable cup by the definition as it is written in your package. The project, while perhaps not an appropriate use for burnet road is an inappropriate use for this location, and again, c.U. Pufferlgs are site plan-based. This is not a

good site plan. If this were my client I would tell them not to take this site. We ask you to did not this request and thank you for your time and consideration. I'm available for any questions.

[16:09:41]

>> Mayor leffingwell: Thank you. You're accurate when you say the planning commission didn't approve the cup. But it's also fair to point out in full context, there were four planning commissioners absent for that vote.

>> Exactly. But by the same token

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>> mayor leffingwell: I'm giving it full context.

>> The applicant has spun their take on this as well so I was being accurate. Thank you.

>> Mayor leffingwell: All right. Dale henr.

>> Mayor, city council. I'm dale henry, president of brentwood neighborhood association. I'm here to ask you to deny the appeal for little woodrow's. The brentwood neighborhood association has never made any deals or supported this in any way much the problem with this is the location. It's -- just like real estate, location, location, location. This is bad location, bad location, bad location. It's too near a residential homes where people have families, where late-night establishment does not mix well. Its parking is too small. Little longhorns across the street has more parking but yet they spill out on to the neighbors' streets. There's no way this bar could not spill out on to the neighbors' streets and when people are going and coming late night, going to their cars, what not, will disturb the families who live near here, who lived here for a long time. The brentwood neighborhood association, the brentwood contact team has worked with different developers and businesses to bring new development in, businesses to the lamar and brentwood corridors, and we have supported many of these, but this is not one that we can support because the location of the business, it's not about little woodrow's, not about a bar, it's about this location, this piece of property is wrong for a bar. This piece of property is wrong for a late night establishment. There is no parking. It's too close to families, and it is just the wrong place for this type of establishment. You all said that the

-- when you upzoned part of the property, that the planning commission would have the say in everything. The planning commission, even no not everybody was there, has spoken, and I think you should go along with them, support the neighborhood and deny this appeal. Thank you very much for your time.

[16:12:12]

>> Mayor leffingwell: David mints?

>> Good evening, my name is david mifnts, I'm the president of the allandale neighborhood association. I'd like to point out a few items. Certainly we stand with the brentwood neighborhood association in opposition to the request for the approval of the conditional use permit. And I am speaking tonight on behalf of our executive committee. First of all, in terms of the applicant's efforts to reach out to the neighborhood association, it wasn't until we invited mr. Engel to appear before our executive committee that we had any opportunity to visit with him about his plans for the bar. I would also point

out that we've had only a couple of opportunities where we've sat down and negotiated with them about the conditional use permit. The conditions that were accepted at the city council meeting when the zoning was approved did not involve representatives of either neighborhood association, and that was certainly something we were not party to and did not approve of. And for us the idea of the operating hours is one that is a key concern. I would point out that between 45th street and 2222, we are not aware of any establishments that operate past 1:00 a.M. I think that you need to look at the uniqueness, and I know there will be other speakers addressing this, but the uniqueness of the neighborhood in that portion. The proximity of the homes, the lack of available parking, the lack of a turn lane on burnet road. All of these things are conditions that make us wary of the idea of having late-night bar operating in the area and the overflow traffic and the impact of neighbors. I want to take issue as well with a couple of other items that mr. Engel said in his presentation. He said, and I quote, literally hundreds of neighbors support the bar. I can tell you that in my time, and I've been president of the neighborhood association during the entire tenure of the discussions on this, I have not heard from a single neighbor in allandale who has told me affirmatively that they support this project as it stands. I addressed the issue about the idea about the -- not being involved in the zoning discussions. In closing I would say that should the applicant be willing to raze one of the buildings, we would certainly need to see the site plans for that and look at other conditions that might be considered as part of a conditional use permit. I am concerned that this is the first time that we have seen the proposed revisions to the site plan. We were not involved with discussions about those changes, and if the applicant was truly acting in good faith I would have hoped that between the time of the planning commission meeting and this evening he would have reached out to us to visit with us about those potential changes. I'll be happy to answer any questions.

[16:15:19]

>> Mayor leffingwell: Thank you. Donna beth McCormack.

>> I'm going to take a little bit different approach. I'm going to talk about rationale versus passion. I'm going to read what I wrote at 1:00 a.M. This morning. It's 1:00 a.M. And I am composing this rather than sleeping because I feel very strongly about where I live. In the time I've spent before the council on issues, it's been mostly rationale. I'm going for passion now. I've had one or more houses in allandale since 1962. I've lived in other parts of austin, but always come back here. It's home. It's a neighborhood. It's family, and we want to continue it to be a neighborhood for families, friends, pet stores where we know the people. With the latest business that wants to go in we feel that we have been deceived at every turn, with all kinds of things going on behind our backs and not quite the real story coming out until we hear it in the public venue. Meetings with city staff and changes without notification, a liquor license for something that is not settled with the city but given permission by a city staffer. We do not spend hours on them at city hall lobbying for our cause because most of the people have families, so we come when the issues come up at commissions or councils. We can work with this. Ja niecea longhorn is an example. They're an institution in the neighborhood and the owners live there. We have other businesses that we patronize, h.E.B. And the truck loading issue was resolved. The owners proposing little woodrow's would not live with a bar in their front door and none of them live in an area where there is commercial activity. My big question is why this location? A few blocks up burnet road is the old

market area. It's a building and a lot of parking. I'm sure that location would be available. But it is in a commercial area, not across the street from homes. That would be too logical. Neighborhoods are the life of the towns. We vote, we shop, we pay a lot of taxes, we work, we keep up our properties and our kids go to school here. For the most part developers drag their sack to austin, bill, sell and leave. We're getting ready to have an impossible situation with 11 people sitting where you all are and 11 members on commission. Talk about no decisions. What a zoo. Everybody will have something to say and it will be all talk. You'll think it was late-night tv. Keep our neighborhood a good place to be. Those that want to live close to bars can live in the highrises downtown or have no yard to mow or plants to take in in bad weather. The noise can be all they have to worry about.

[16:18:37]

>> Mayor leffingwell: Okay.

>> We've had two deaths on car accidents on burnet road and we don't need anymore.

>> Mayor leffingwell: Okay. Think about 50% more talk than you've heard tonight from the dais. When you get the additional council members. 50% more. [Laughter] okay. Next speaker is joe reynolds.

>> Council member and mayor. I'm joe reynolds and I live in allandale. I'll be discussing parking and neighborhood compatibility related to the bar. One requirement for conditional use is that it be compatible. I've sent you all background material that was considered by the planning commission during their deliberations. I'll be reminding of of what I spent not repeating it. The first issue is allandale has houses on month view within 200 feet of the parking so variance is required. These houses were not considered during the zoning hearing. We submitted an engineer's letter documenting the measurements. I sent you stuff describing our neighborhood. We're single-family residential. Most of the houses are '50s era. Many houses have house [inaudible] so we open windows on cool night breezes. We use our yards for family and social purposes. I sent the planning commission photos of a walkabout showing the porches with cares, tables, candles and books. At halloween while the kids trick or treat adults sit in the yard and get sugar shock from eating their own candy bars. The people go shopping at the h.E.B. Center. I sent you information about that. I sent photos of pedal tricycles and power chairs and discussed the issues of those neighbors. We're active in our community. This area is part of precinct 236 and I'm the usual election judge. We're consistently in the five or six precincts in voter turnout. We're not just being cranks in our opposition today. We understand policy. Several of us here participate in code necks projects. We know rules have a priority project. Not being able to yell fire. We think that real problems, when

-- we think there are real problems when regulations that are put in place to protect residents' rights and peace are circumvented by those intended to promote transit ridership. Their priorities are wrong. In my submissions to you I discussed the neighborhood streets, they're too narrow and largely without curbs and there are no sidewalks. Showmont gets down to 18 and a half feet and month view is 20 feet. Some places have ditches and some are landscaped. Then I presented our parking analysis to you. This project's primary focus, even during zoning, has been parking. The building plans are gerrymandered to keep the bar below parking requirements. Remember the term devising walls? The bar less than 2500 square feet? A pizza restaurant and now a corporate office cited just so they won't brake the parking threshold. This violates the purpose of the regulation which is to minimize off-site conflict, even if it

meets the wording. We're upset that just this monday during the the appeal process and since planning denied the permit, attempts have been made to further reduce on-site parking requirements. I have extra time. I presented our analysis

--

[16:22:12]

>> mayor leffingwell: Who's donating your time?

>> I am.

>> Mayor leffingwell: What's your name?

>> I'm caroline meadows.

>> Mayor leffingwell: All right. You have another three minutes.

>> All of our

-- I have another one behind that too. But I won't be taking that. I presented our analysis

--

>> mayor leffingwell: I'm going by the list that was given me

-- given to me by your group

--

>> I understand. We signed up

--

>> mayor leffingwell: And you're not playing with the rest of your neighbors.

>> We signed in on the computer outside and it listed names that we were supposed to be assigning time to.

>> Mayor leffingwell: So we're going to abandon this list at this point. Is that correct? Submitted by the neighborhood?

>> That's the order in which we're going to take the speakers, but that's not the order for time. I presented our analysis of overflow parking. We used a typical business case analysis to calculate the required monthly cash flow to sustain the bar. Then used published internet prices to calculate the number of beers needed to get that cash. We used guidelines from universities which show students how much you can drink and not violate dwi laws, arizona state was a good example. That gave us a customer count. We adjusted it for typical hours and days effect, mostly nights and mostly weekends. What we got was about 450 to 500 patrons every friday, saturday and sunday. We made discussions about where those patients

-- there were discussions about where those patients would come from. In some of those the applicant first said they would walk from the new apartments being built, but that would require that a majority of the residents spend their every weekend at his bar. Then during the negotiations over closing time the applicant said that starting at 10:00 p.M. Tech workers would drive in and that they were 20 to 30% of his business and essential. I don't think he knows where they're coming from. We based our customer count

-- based on our customer counts we estimated 125 cars parking in our neighborhood starting about 4:00 p.M. And with 75 being retrieved midnight or later. At maximum density you can get two cars in front of a house. We have about six to twelve houses per block. The right of a good night's sleep, to use our

yards, to walk in the neighborhood, calls civil order. It's an ancient established right of civilization. This overflow parking disrupts our rights to use our yards in public spaces. If only 10% of the car is being retrieved set off an alarm with a clicker, every house will be disturbed or if patients argue over who can drive, who flirted with whom, we're all awakened and deprived of our rights and citizens are compelled into the order of civil order. Don't just call 911 and complain, they want license number, color and make, driver's shirt. Maybe you can do that at midnight if you stayed up for watch charlie rose about brains or book. But 2:00 a.M. Is abuse itch. Overflow estimates are abusive. They don't include lucy's longhorn. They're in line with what's significant abuse around congress. Restaurants up-to-dating parking stripes in front of hopes, valet parking at my home and around east 11th and east sixth street. Parking zones and such programs are onerous and shouldn't have been initiated. A project like this one almost designed to violate our established rights and civil order should not be permitted. The bar is incompatible with the surroundings and should be denied just as planning did. Thank you.

[16:25:42]

>> Mayor leffingwell: I'm going back to the computer list now since there's not

-- if

-- we're either going by the paper list or the computer list, not both. So the next speaker is chris hayden.

>> Tovo: Mayor, I have a question about that. As I understood mr. Reynolds' discussion he just needed extra time and he got it from someone else who had signed up during the computer process. And I also

--

>> mayor leffingwell: They're not donating time to him. Chris hayden is the next speaker.

>> I donated my time to

--

>> mayor leffingwell: And

-- yeah, I'm going to call out the others. Chaney crow? Are you chaney crow? I'm showing you donating time. Timothy thakler? Is timothy thakler here. You're chris hayden. You have up to nine minutes.

>> Before you start, are we going from the paper list

--

>> mayor leffingwell: We're going from the computer list.

>> Tovo: I think that's appropriate

--

>> mayor leffingwell: I disagree.

>> Tovo: I understand you do but I would like to be able to finish my point. I believe we should go in the order in which the individuals have expressed their preference. That's our regular practice, when people provide us with a list that shows their preferred order of speaking, we

-- I can't remember a time, another time where we haven't honored it.

>> Mayor leffingwell: Chris, go ahead. You have nine minutes.

>> I won't need the full nine minutes. For the record, good evening, mayor, mayor pro tem and council members. For the record I'm chris hayden, and I live in the 5400 block of month view street. I'm approximately 400 to 500 feet from the establishment. Per the site plan there's two buildings he talked about earlier in the evening would remain as storage. The currently would be

-- we also talked about earlier this evening they were marketed  
-- they're being currently marketed as office retail space. And the only reason this  
-- they got pulled off the market today is because they're having parking issues. And there was a reason  
why they want to have these buildings filled. There's approximately 8,000 square feet in these buildings.  
Even at a low \$16 a-square-foot  
--

[16:27:47]

--square- \$16 a-square-foot ---square- foot

-- per-square-foot for each

-- office space times the 12 months per year times the 25-year lease of the bar, that's also going to be  
occupying this area, it would equate to about \$37 million, at a rate of \$24 per-square-foot lease space,  
that would bring up to 55 million, almost \$56 million. That's the reason why they want to use this office  
space. The reason they pulled this off the table because they still have to work out their parking issues. I  
think if you can show the

-- go ahead and go to the second slide. I want to show that this is an advertisement that they just pulled  
today that shows little woodrow's and planned building office space/retail space, not storage space.  
They've now pulled it back but I want to point out this is an example of where they say one thing and do  
something else. During the zoning hearings they referred to this as storage space. This is being marketed  
as retail and office space. Not the same thing. Another reason this is not a good space for a bar at this  
location, and I want to reiterate that based on their practices of doing one thing and saying another, it  
shows that they've not made a good-faith effort for this project. Therefore, I'm requesting that you deny  
their appeal. Thank you. If you have any questions I'll be happy to answer them.

>> Mayor leffingwell: Thank you, chris. Paula kern? Is kent adams here? You have up to six minutes.

>> Good evening, my name is paulette kern. I'm a native austinite and resident of allandale since 1976.  
I'm lucky to have grown up here and I've seen lots of changes. One of the great parts of living here is I've  
experienced the basic austin value of being good neighbors. My parents taught me that my rights  
stopped at my neighbors' toes which included their property and I was to consider the impact of my  
actions upon my neighbor and not cause him or her angst or disruption. In return I would receive the  
same respect. This neighborliness has been a hallmark of austin and I believe is what makes it such a  
friendly place to play work and work. Business aren't acting in a friendly manner, especially businesses  
located in the heart of the community. The success of these businesses is dependent on the  
neighborhood around them. These businesses come into the lives and homes of the neighborhood,  
hopefully only at desired times and at the invitation and to the benefit of the neighbors. The applicant in  
the appeal before you publicly portrays himself and his business as a good neighbor. However, his  
actions speak louder to reveal a pattern lacking in good faith. The applicant's business will be injecting  
itself into the yards, living rooms, bedrooms of the neighborhood without invitation and often at times  
disruptive, especially to homework, family time and good nights sleep. The applicant was granted cs-1  
zoning in february of 2013, often representing to planning commission and to council that he had met  
extensively with surrounding neighbors and strived to address their concerns, but he had only one  
meeting with the brentwood neighborhood association and one meeting with allandale neighborhood

association. Those meetings included promises to keep them informed, which to our knowledge has not happened. And the applicant or his team has never met specifically with surrounding neighbors at their request. Instead, the applicant waited until the last closed council meeting hearing for the zoning change in february of 2013 for highly pressured negotiations, which included neither of the neighborhood associations. These negotiations were supposedly about a cup, which our understanding was that was

-- that was to be done after zoning had been declared on a property. Then you worked on the cup, which was why we were not present in that. The applicant's lack of good faith was demonstrated also during the the cup process. The applicant has met only twice with the stakeholders and never at the request of the stakeholders. First meeting was called by the city case manager friday, november 1 of 2013, and the second was forced by planning commission during a hearing on november 12. The applicant delayed this meeting until just three days before the planning commission hearing. Stakeholders approached both the meetings with a goal of truly negotiating with the applicant and his team. During the first meeting the applicant made it clear that he did not intend to address the stakeholders' concerns. At the second meeting the applicant agreed to a list of conditions to be added to the cup in note form. However these were not concessions, only a restatement of existing regulatory requirements coupled with several commitments outlined by the applicant during project presentations. The applicant has continually circumvented the concerns of the neighbors despite the expression of the impact of this project on their lives. On january the 27th, pearn's of action just three days before this hearing, the applicant proposed city staff with the proposal to reduce the number of required parking spaces for this project to 31. A flagrant disregard for the impact upon his neighbors of overflow parking to adjacent streets.

[16:33:13]

[Inaudible] this business will contribute to the neighborhood, only negatives inflicted such as decreased safety, blocked driveways and curve sides, intruding noise until 1:00 or 2:00 at night, inebriated and destroyed property. The applicant says he can't make enough money if he were to close the doors and bring all the noise producing activities inside at 8:00 p.M. Or 10:00 p.M. In our experience this applicant makes demands and does not seek to give concessions. In contrast we have dealt with other bars in our area who seek to act in a neighborly manner, and you heard about some of those earlier. In conclusion, it is obvious that the applicant has no desire to be neighborly. The neighborly characteristics of communication, consideration and respect for neighbors he seeks to invade are nowhere to be seen in his actions. A little communication of all the things he stated in his presentation may have gone a long way to help some of the problems. Lacking these characteristics would be tolerable if his business would just sit there and do its thing without bothering anyone, but it will reach across the streets and jump fences unwanted into the homes of the neighborhood and demand neighbors' time and attention as this business takes away parking for friends and family to visit residents and deny its neighbors a common quiet night's rest so they can enjoy their home and surroundings. Furthermore the applicant's patrons are likely to cause damage to neighbors' property. Join us in supporting neighborhoodliness even in weird austin and vote to deny this appeal. Thank you.

>> Mayor Ieffingwell: Barbara macarthur? Donating time is chet adams. Is chet adams here? You have

six minutes.

>> Thank you, . I'm sorry we can't go in order because my presentation was supposed to follow and explain someone else's.

[16:35:14]

>> Mayor leffingwell: Who would you like to go before you?

>> Joan bates.

>> Mayor leffingwell: Joan bates. Come on up, you can speak now.

>> Good evening, mayor, council members. My name is joan bates. I am a former deputy general council for the texas alcoholic beverage commission. I am not a member of the neighborhood or a neighbor. On january the 9th, 2014 while this appeal was pending, a mixed beverage with late hours permit was issued to this

-- to the little woodrow's at 5425 burnet road by the texas alcoholic beverage commission. This fact was discovered by one of the homeowners when she was looking at the tabc web site on tuesday evening.

The applicant never informed the stakeholders that an application had been submitted to tabc.

Homeowners were polled and none of them save and except one homeowner, had received notice that the application had been submitted to tabc. The homeowners' entire focus has been on the cup process and reaching some agreement, an acceptable agreement with the applicant. The tabc application must contain the certification by the city secretary or clerk, certifying two things: That the location is wet for the type

-- for the sale of alcoholic beverages of the type of permit that is being applied for, and the second is that there is no local ordinance or charter that makes the sale of alcoholic beverages for the permit sought illegal at that location. The certification of the city secretary was placed on that application that went to tabc, and tabc relied upon that certification when they granted the mixed beverage and late hours permit on january the 9th, 2014. There is, in fact, a local ordinance that makes

-- that prohibits the sale of alcoholic beverages by local

-- by a cocktail lounge, and that's the terminology in your code, without first obtaining a conditional use permit. This ordinance is section 25-2-808 of the austin code of ordinances. On january the 9th, 2014 the applicant did not have a conditional use permit. Therefore, when they received their permit from the texas alcoholic beverage commission they were still out of compliance with city requirements. The applicant had actual knowledge of the lack of his compliance with city code regulations at the time he submitted his application to tabc. However, he never made tabc aware of the fact that he was

-- it was illegal for him to sell mixed beverages at that location.

[16:38:36]

>> Mayor leffingwell: Thank you. And you're not signed up at all.

>> I am

--

>> mayor leffingwell: Not on the computer.

>> I signed up on the computer, sir.

>> Mayor leffingwell: So if you check with the clerk and straightened out I would appreciate it.

>> Cole: I have a quick one.

>> Mayor leffingwell: Mayor pro tem.

>> Cole: Joan, you said there is adorns that prohibits receiving an alcoholic beverage permit unless you already have a conditional use permit?

>> Yes. That part of your process is the conditional use permit must be obtained by either a bar, cocktail lounge or a restaurant with more than 51% alcoholic beverage sales. So that local ordinance makes it illegal to operate a bar without having that cup.

>> Cole: Okay. Can we get the one from

-- someone from staff to speak to this issue?

>> That section is 25-2-808. That's basically the

--

>> mayor leffingwell: Okay. Would you check with the clerk, because you're not signed up on the computer.

>> I certainly will.

>> Mayor leffingwell: The clerk is over here, by the way.

>> Assistant city attorney. And the city code, which is written to track state law, requires that

-- let me see here

-- give me a second. Excuse me. It requires that for the city clerk to certify

-- to make the required certifications that the place of business has to be in a wet area and that the sale of alcoholic beverages is not prohibited at the place of business by city code. And I think generally in the past

-- past practice for the city clerk's office has been that if

-- if it's an area where the zoning district would conceivably allow a use where alcoholic beverages could be sold, then they make that certification. I think that's been the established practice. I think that we would have to look into it and we would have to, I think, consult with the clerk and with probably planning as well, but I think the

-- the interpretation that was just advanced is essentially that under our existing ordinances, if a conditional use is required, then in effect the sale of alcoholic beverages is prohibited until that conditional use permit is issued, and that is certainly

-- that's an understandable interpretation. I think it's different than what the city's practice has been, but it's something definitely that the law department, along with

-- in conjunction with the city clerk's office, that we can look into.

[16:41:58]

>> Cole: So I guess I'm trying to

-- I mean, we have to make a decision tonight, and I'm trying to make sure that I'm clear, you said that was an understandable interpretation, but we may actually have a practice that's inconsistent with that. Am I understanding you right?

>> I think that the

-- I think, yes, state law is preemptive with respect to the issuance of liquor licenses. We have very

limited authority, but the former tabc attorney did correctly cite the law, and that is that we certify a license application if it's in a wet area and if city code doesn't prohibit the sale of alcoholic beverages. The staff's practice has been that they look at the zoning code for that determination about whether alcoholic beverage sales is prohibited. They simply look at the zoning code, and if conceivably there's a use there that would allow the sale of alcohol, they make the certification, and I think that the -- the argument that's being asserted is that if a cup is required, that certification shouldn't be made until the cup is issued, and as I said, we will look into that issue. We will consult with the city clerk's office and can provide some kind of follow-up on that if it's requested. The matter before you, the cup permit, the council, when you're hearing an appeal, you sit in the shoes of the body whose decision you're reviewing, in this case the planning commission, and so I think the council would be well-served to focus on the criteria that were recited to you in the staff presentation and looking at the cup, looking at compatibility, looking at impacts and looking at those factors.

>> Spelman: Mayor?

>> Mayor leffingwell: Council member spelman.

>> Spelman: Brent, while you're there, so little woodrow's now has a permit from tabc to sell alcohol, but does not yet have a conditional use permit. Does that mean that he can sell alcohol out of that location or not?

[16:44:05]

>> The -- in order to operate a business there, they're going to need to have a permit from the council. They're going to need to have a permit to operate a facility where they can do that. So your approval is still very much required for this business to operate.

>> Spelman: So from a practical point of view the fact he got the tabc permit before getting the conditional use permit doesn't really matter. He still can't sell alcohol until he gets a conditional use permit. Is that right?

>> He needs to have a legal place of business that meets city zoning rules in order to use that permit. That's correct had.

>> Spelman: Well, sounds to me like we ought to avoid the wrath of tabc lawyers in the future and verify if a conditional use permit has issued before we certify that it is not prohibited. But also sounds as though it doesn't really matter very much from a practical point of view because he needs both the tabc permit and the conditional use permit before he can sell alcohol. Is that right?

>> I think that's a fair statement. I think we want to review the interpretation that was advanced by the former tabc attorney. As I mentioned, it's an understandable interpretation, but we want to review it, research it, consult on what past practices has been, and some kind of follow-up communication can be provided. But we'd like to kind of look into that further before taking a final position on it.

>> Spelman: Okay, but the answer to my question is yes, he needs both, right?

>> Yes.

>> Spelman: Thank you.

>> Mayor leffingwell: Council member morrison.

>> Morrison: Thank you. Ms. Bates, I have some questions for you if you wouldn't be mind coming back up. I appreciate your coming down. A couple of questions about the permitting process at the tabc level.

First of all, do you have any

-- any insight into why tabc wants that city certification that it's legal, all the city level ducks are in a row before they do their permitting?

[16:46:06]

>> It's a requirement under the code. It's something they can't waive.

>> Morrison: Got it. And then the other thing that you mentioned is that there is a certification on the application that

-- well, I shouldn't say that. There's a requirement on the application that they notify each residential address and established neighborhood association?

>> Right.

>> Morrison: And so if that didn't happen, if there's some

-- is there some kind of certification that an applicant makes that everything is true and correct?

>> Yes, they must swear or affirm that everything on the application is true and correct under penalty of prosecution for fraud under the government code.

>> Morrison: What happens next if you

-- like, do the neighbors have a mechanism

--

>> that action would be taken by the tabc to the attorney general, who is the only entity that can prosecute under the government code.

>> Morrison: And then to step back a little bit, it sounds to me like maybe the tabc, since they want the applicants to notify the nearby neighbors and associations that they're interested in, in place. I mean, so what criteria does the tabc use and what may they not have understood since there wasn't an opportunity for input?

>> Well, they understood that since they assume that the requirements of the application that the applicant notified everyone within 300 feet of a residence, within 300 feet, was

-- had, in fact, been done. Attached to that notice must be a protest form that persons who are in opposition to the

-- having a bar there could file a protest with the tabc and have a hearing, because that notice wasn't sent out or received by one person, there wasn't an opportunity to have a protest at the tabc. , So the application was granted.

[16:48:21]

>> Morrison: I see. And is it usual at the tabc

-- do you get very many protests?

>> Yes.

>> Morrison: And does the

-- so there's a hearing and

--

>> there is a hearing. If it's a beer license, the hearing is at the county judge, the county judge does the

hearing. And if it's a liquor license, then it goes to the state office of administrative hearings.

>> Morrison: I see. So it would have potentially been significantly different process?

>> Yes. But that assumes that the city has done everything, including having the fire marshal say that it passes its inspection, the city has signed off on everything presumably before tabc ever touches that application.

>> Morrison: Right, so we missed that.

>> We missed it.

>> Plus the neighbors didn't have an opportunity to

--

>> to file a protest, correct.

>> Morrison: At that level. Okay. Thank you.

>> Mayor leffingwell: Cynthia killhain? Cynthia keelhain, and donating time is john keelhain. So you have six minutes.

>> Good evening, mayor, mayor pro tem and council members. My name is cynthia cohain. My husband and I live at 5702 wiknown in allandale and I'm a former president of allandale association. The little woodrow's proposed for 5425 burnet is just 4/10 of a mile walk from our home. Burnet between 45th and 2222 already has many bars. We are at risk of becoming the worst

-- like the worst of south congress. At last month's planning commission meeting

-- planning commissioner and south austin resident donettek. Told the commission that most visitors drive, don't walk to her neighborhood off south congress and they treat it as a parking lot. And I just have a brief quote. She said, "you have venues serving alcohol until midnight, 1:00 a.M.2:00 a.M. Then you get people coming back to their cars drunk, partying, making a ton of noise. And it is difficult for seniors, for families, for anyone who's trying to sleep. " Which brings me back to our situation in burnet near my home. My home is right behind the h.E.B. At burnet and 2222. When a bar owner applied for a late-use permit at that shopping center, a number of us neighbors protested zoning and platting and we won. Something that mayor leffingwell told me then has stuck with me. I saw him at a meeting before that decision, and basically gave him a heads-up that the issue might come before city council. Mr. Leffingwell said, and this is pretty close to a direct quote, "my mother always said that nothing good happen midnight." His clear message was

--

[16:51:38]

[laughter] actual actual ly 10:00. It was 10:00. [Laughter]

>> I like your mom even more now, thank you. His clear message was, if this issue comes before council, I will support you. I've got your back. Clear message. Don't worry. Tonight I asked the mayor and city council

-- I ask the mayor and city council to support the neighbors. Thank you.

>> Mayor leffingwell: Okay. Next speaker is

-- I think I started to go to you and then we changed. Paulette

-- no, it's barbara macarthur. And kit adams is here. You have six minutes if you need it.

>> Thank you for letting us go in the correct order. What I'm here to talk to you about

--

>> mayor leffingwell: There's no order anymore. We're just kind of

-- [laughter]

>> okay. Okay. I do some physics so I understand chaos. What I'm here to talk to you about is the varying story of little woodrow's as we've come to know it in the last 13 months. The first time we heard about it it was a family-friendly restaurant that served drinks and not a bar and that's why they needed rezoning. It turns out they don't allow children in the bar. It's a bar. It has no kitchen. So the first thing we learned. Then they also said, hey, we've got an agreement with the episcopal ministry next door to provide all your parking. Well, they said that publicly. That wasn't true. Then all of a sudden woodrow's was a retail store named burnett bazaar, and they attempted to get a site plan exemption for the site, pretending to be a retail store. That was interesting. And then I will have to say we were thrown into last-minute negotiations at the city council and it looked like we wouldn't prevail against the bar zoning, but from the time we negotiated to the time what we talked about went into the other room, some important parts of the negotiation were removed. And so I was very disappointed to see one of the key parts was already gone. I didn't carry it in. Then even though the bar size was reduced to 2487 square feet to avoid increased parking requirements, because parking doubles at 2500, they refused to reduce the size of the zoning change to meet that thing that they had agreed to. And then we were told that the two rear buildings would remain empty, used for storage, but to make sure there was enough parking. Well, we hear now and we saw, we have two commercial real estate people calling, saying, as soon as little woodrow's is in you can have those offices, and you get 24 spaces with them. This is at the same time, the same day they told us to our faces, it's a cup, it's a unified site plan. Nothing can be done with those buildings except for storage or else the cup is not valid because the cup is tied to the site plan, so that same day I found out they're actively renting them. Then we were called to a meeting at the city by people from the little woodrow's where they said, can't you support to even further reduce that parking? Because, you know, it would look a lot better if we had to have less parking on burnet road. We said, parking is our problem. We can't support that. And then we went

-- we were called to another meeting where we were told that

-- where we talked about sound and noise and the disruption in our life, and we listened and they said, well, he's a good player in that but I went home. I looked up. He operates some of his other bars with expired sound permits. And just to make sure, their sound on the way home from the planning commission, we stopped at least 100 feet from a little woodrow's and there was loud noise. Now, loud noise. I opened the windows. And I thought, I could call the police because this is against the sound -- but is that a good use of police? No, I didn't call. I just made a mental note about that. Okay. The next thing is parking is a big concern. In case you guys don't know, this bar and restaurant has an operating capacity of over 200 people. I calculated 277 people at one time. Tonight he presented 31 parking spaces for 270-plus people and that's not counting the offices and the office. That would add, what, 30, 40 more people. So it's unbelievable. And we were never included in any of this. It just shows up tonight, 31 parking places for 270. You know

-- there's no late night bus line so if you're going to take cars to the bar and be able to park you're going to be putting 12 or 13 people in every car or else you're parking in front of our houses. Okay. Now, the last thing I wanted to talk about was the tabc permit that I discovered. When I talked to the tabc and looked, they said no one can take a permit in their hand unless their location is legal to operate. You can

ask your city staff if they can operate right now. That's what I understand when I asked the question. And also, I asked a question, it says on the form, you have to notify the neighborhood associations. You can ask the two neighborhood association presidents if they were ever notified. They certified that they did this. They took that permit knowing they weren't legal to operate. So this is what I ask you. Please uphold the planning commission and deny this cup. Please, please, please. I can't see how anyone thinks it's okay for us to live across the street from a bar and restaurant that can hold 250 people with 31 parking places. No one would want to live like that. Till 2:00 a.M.? No one wants to live like that. One of our neighbors is here with us, a 7-year-old. He's a an artist. He had to get had home. Mcl FRIEND MARY IS EECH A Teacher. She gets up at 6:00 a.M. Every morning. Can you imagine that? Please.

[16:57:47]

>> Cole: Let me ask you a question.

>> Mayor leffingwell: Council member cole?

>> Cole: Thank you. We negotiated hard and passed as voting 5-2. I clearly understand a lot of those provisions are no longer on the table and that's all over with for a lot of different reasons. One is the brentwood neighborhood association wasn't there. But he mentioned

-- and two, it looks like the parking ratios have been abandoned. I'm trying to understand how you -- and I'll ask this question of staff in a minute. You're saying that the parking ratios are not the same --

>> right, they've been reduced to 31 spaces in the last two or three days without our knowledge, because of cart to go. If they put a car to go on their lot

--

>> a car to go.

>> They're keeping the bar 12 square feet below what they would be required to have really adequate parking. Then they get the urban transit corridor reduction for narrow burnet road of 20 more%, and now ten more places for car to go. 31 spaces for hundreds of people.

>> Cole: Okay. Thank you, barbara.

>> Mayor leffingwell: Sounds to me like the tabc is in big trouble. Ann bruno. Ann bruno? Alice goay?

>> [Inaudible]

>> mayor leffingwell: All right. I'll see if anybody wants it. Jordan harmcy? Do you need a donation of time?

>> No.

>> Mayor leffingwell: All right. So you have three minutes.

>> Mayor, members of council, my wife and I live with our two children on clay avenue just very close to the proposed site. We moved in there because it was a quiet neighborhood. It seemed a suitable place for raising children. It's out of

-- just out of the noise of

-- far enough away from burnet to be out of that noise or the noise of koenig, and we now have two 5-year-olds. My wife's elderly parents live up the street. We

-- I know the applicant showed you a beautiful picture of the site in daylight. I'm not looking forward to -- I'm dreading the nighttime picture of the overflow parking, which I fully expect to see on clay avenue,

with an entrance there, the people driving drunk on clay avenue, which as reynolds points out is one of those streets with

-- fairly narrow with no sidewalks. And the

-- the noise. I think the idea of us trying to sleep, our children trying to sleep, with the level of noise that the bar is likely to have that close, is intolerable. My wife was seriously talking, saying we would just have to leave that neighborhood. And then the idea of having our children walk to see their grandparents, if there's much heavier traffic on that street, more cars parked on it, there's no sidewalks. It's obviously extremely troubling. It's

-- it seems to me that this does infringe on the uses of nearby sites, which as I understood one of your staff members to say was one of the issues in granting a cup. And I urge the council to deny the cup.

[17:01:40]

>> Mayor leffingwell: Okay. Steven zetner?

>> I had to go [inaudible]

>> mayor leffingwell: All right.

>> [Inaudible].

>> Mayor leffingwell: Greg chico? Catherine davis here?

>> Yes [inaudible]

>> mayor leffingwell: So you have six minutes.

>> Good evening, mayor, mayor pro tem, council members. Robert, it's nice to see you. I am not here representing brentwood or allandale. I don't even live in brentwood or allandale or anywhere near the site, but I have for approximately a decade owned a multi-family property very close to this

-- this location, and I'm here to talk about some of the many reasons, and I'll try and be very brief because you know a lot of this already

-- some of the many reasons why this is so inappropriate and is

-- clearly represents a totally noncompatible use. [One moment, please, for change in captioners.]

(cofa9-27-12.Ecl) the demographic richness and texture and some of the things that we look for here in austin as a city. This is urban core austin, brentwood, this neighborhood, allandale, north loop, one of the wonderful aspects are how walkable it is. You have families that live there. You have elderly people and you have children. Some of my children, that have been very long term, have infants and yet they are living in dwelling units that are maybe 200 feet away from this bar. 200 feet is not more than two or three times the distance of this room. To me this is clearly, not in my backyard case, a nmbe, and I am sure that is true. It shouldn't be in your backyard or yours or anyone in this room. There are places that bars and clubs are appropriate. This is not one of them. This is a cart before the horse. I believe that the applicant had the bar and went out and said, okay, well, this will work. Let's shoe horn this in. Let's make this work. This is directly across the street from residential, single family dwellings. It is in close proximity to multifamily dwelling. I hear a lot of talk, sometimes it seems like lip service, about affordable housing. That's what

-- I am not trying to do affordable housing. I do it. I have been doing it for almost a decade in this neighborhood, these people, my residents, a few of them are here tonight, at least one of them is going to talk. They don't want to live there. What is the alternative? Oh, you can soundproof your apartment.

Sure, you can, but then you can't charge the kind of rents that make it affordable so I won't go on and belabor all of the reasons why this is such a bad, bad use for this site, but I do implore you to look at the big picture, to consider what is can appropriate and what is good for the neighborhood and a bar is not, and particularly this type of bar, with this applicant, is not the right thing. Thank you very much.

[17:06:06]

>> Mayor Leffingwell: Mary long geil. Geil. You have three minutes.

>> Hello. Thank you for being here so late. My name is mary long geil. I live 70 feet from the proposed site. John walker who left with his daughter lives 55 feet from the proposed site. We have lived there for 30 something years. My daughter couldn't sleep one night or lots of nights because of of little longhorn, so we built a bedroom in the back of the house. Little longhorn is quite away from our house as opposed to little woodrow's. Little woodrow's is in our front yard. I guess

-- I guess he said everything that I really was going to say. It just doesn't

-- this site is way too small for this bar, as barbara said, 200 something people coming to this bar. The fact that the storage buildings are for rent, the fact that tabc

-- I was the one person who got the tabc letter, and I was told by everyone who I asked, should I send this in and oppose it. They said, oh, no, no, no, don't worry. We've got to go through the cup first

-- we've got to get a cup first. Well, I am the only one

-- and I was told what the real law was is that we had to wait, and then deal with that later. So now we are dealing with it before later. So I really hope that you can see everything that everyone is saying here and help us

-- help us help austin grow but not

-- not at this location. It's too small. Thank you very much.

[17:08:15]

>> Mayor Leffingwell: Jackie doyle. Is jackie doyle here? Is julie runholt here and paul runholt?

>> (Indiscernible).

>> Mayor Leffingwell: All righty. He doesn't count them. You have 6 minutes.

>> I will try to do it in 6 minutes. My name is jackie doyle, good evening, council members, mayor, mayor pro tem, I have lived on houston street for 7 years and will be directly affected by the little woodrow's plan for burnet road. For those of living near the site which is 500 feet of this home, the arrival of this bar would be a catastrophe for many reasons. One, it will bring impaired drivers into a residential neighborhood. We already have drivers tearing down houston street and we don't need more. We have had numerous incidents of speeders and apparently intoxicated drivers running stop signs, jumping curbs and running over pets. In one incidence, a likely drunk driver ran over our trash can at 2:30 in the morning, scattering trash everywhere, this is not the first incident. Another dislodged the curb and unlatched sack lung in front of my building. This is used by pedestrians and young people walking to and from culture high school and other people walking to the seton's rehab facility at houston and clay, it is worrying a bar can be plunked down on the corner. Two, there is insufficient parking for existing businesses. Some days, houston street between jeff davis and burnet is like a

parking lot, people from burnet road businesses parking in front of our homes, both sides of the street, reducing a road to single lane as they must pull over to get on the road in each direction. Three, the neighborhood doesn't need a late night bar. I understand 1:00 a.M. Closing time has been proposed. In my opinion, 1:00 a.M. Is too late a closing time. Lucy's chicken which serves alcohol closes at 11:00 p.M. Which serves the neighborhood fine. Likewise other places in walking distance serve alcohol but close before midnight. I see no reason to have later closing time for little woodrow's, especially since there is no bus service to accommodate intoxicated patrons so late. Four, noise of course will be exponentially worse with a bar on the corner, particularly one with outdoor seating and music. To give you an idea of how much noise from burnet already permeates the neighborhood, it recording the announcement and mechanics playing it with the garage door open can easily be heard into my home and heard indoor even with all of the doors and windows closed. Compounding these senses with a bar open late at night and we are still having outdoor seating and entertainment is an enormous burden on people who live and attempt to sleep in this neighborhood. Many older homes and affordable housing options like the building which I live, which is greg's building do not have the soundproofing of some new constructions. Five, texas is number one in drunk driving. This bar would doubtless be a burden to apd to dispatch drivers to work on drunk drivers and work on that and establishing a late night bar, that's a waste of police resources already dedicated to many areas that have a concentration of bars. It will nearly be impossible for apd to extend give patrols throughout the neighborhoods. As reported in austin monthly this summer, despite due diligence, the law enforcement units are spread thin with increased by 15, 1-5, field agents assigned to monitor all licensed bars, venue for music and bars alone. 15. That is precious for you. The city should make sure places with late night bars have late night transits. Establishing late night bars without late night transit is a huge step backward. City council needs to realize this. Finally, I do not accept the premise that the new urban model of development involves establishing late night bars in residential areas. While having such bars may give appearance of cosmopolitan city it is a cheap venue. It does nothing to effect a live, work, play balance because absent transportation that runs all night throughout the city, it rendering residential areas penetrated by late night bars less safe and less livable. Public safety and the liveability of neighborhoods should be of paramount concern to all of us. You are public servants. You have been called to safeguard the interests of the people of this city. My neighbors and I are here to ask you to please answer your calling. We would like you to please support our neighborhood and deny this conditional use permit for little woodrow's bar. Thank you.

[17:13:32]

>> Mayor Leffingwell: You actually have another three minutes donated by alice goeey if you want.

>> Can I pass them on?

>> Mayor Leffingwell: Certainly if you don't want to.

>> I am finished.

>> Mayor Leffingwell: All right. Timothy fackler.

>> I am an allandale resident and I live just west of burnet road opposite the little woodrow's site in this appeal. You have heard a range of concerns this evening from neighbors about the little woodrow's site plan. I would like to sharpen your consideration of these issues with what I think will be a familiar

comparison for all of you that illustrates what I expect if you go ahead with the report for this appeal. Trudy's on 30th street, just north of the u.T. Campus. Trudy's operates in about 4100 square feet. It has about 64 parking slots including a lot of across the street. It sits in a pedestrian friendly part of town, but as a destination bar and restaurant sees heavy parking overflow in the surrounding neighborhood and frequent traffic congestion in the area. By comparison, little woodrow's and its adjacent restaurant and administrative offices would operate in a larger footprint, over 4700 square feet. It would have at least at today's count, more than a third fewer parking slots, some directly on burnet road, in a generally less pedestrian-friendly location than trudy's. I don't believe trudy's would fit this location, neither do I think little woodrow's fits this location. I urge you to deny this appeal and I thank you for your time this evening.

[17:15:32]

>> Mayor Leffingwell: And ann young has donated three minutes to you if you need it. All right. So she's checked off, also. Johnny walker.

>> (Indiscernible).

>> Mayor Leffingwell: That's all of the speakers I have except for alice goey. Alice goey, do you wish to speak?

>> (Indiscernible).

>> Mayor Leffingwell: You don't have to. [Laughter]

>> my main concern is my children, three of them growing up in this area and for the future of all of the future children that are living, growing up in this area, and the pedestri use, and on the second count with that considering is the traffic that would be created with all of the cars as barbara and many others have said we are looking at more than 200 or more, and I am thinking of this more in terms of as graduations and parties and schools are celebrated. I have gone to my family to other establishments and whether it was plucker's or red's porch inn and always there is

-- red's porch inn, for instance, has an empty parking lot beside them. Plucker's has a whole mall. I was talking to a coworker who often frequents the establishments and he was saying that he enjoys the little woodrow's up on lake line mall off of parmer lane. Once again, he was saying the one on parmer lane doesn't serve food but has a lot of parking so that was good. The one at the lake

-- near the mall, that it has plenty of parking because they can park in the mall parking lot. And, again, we don't have that kind of parking to offer this little site. And

-- and I just really wanted to emphasize when I went with a family, there was maybe 16-20 of us to go to celebrate birthday/graduation party and at that point there were friends and family that went in from different parts of the state, actually, in different parts of the city. Again, I would say more than 8 cars at least were taken to fit all 16-20 of us, and so I can only imagine, if this is just one party how many more people would also enjoy this type of place place or facility and I was speaking with a coworker and -- who likes to frequent the establishments, and he was saying that the one he enjoys is the little woodrow's. I was explaining to him they are trying to open up a new location near the intersection of houston and burnet road and he was saying

-- basically his comment was how is that going to happen. It's just way too small. Even the plucker's, you could tell was too small but at least they had plenty of parking to safely drive out of. Once again, just to

emphasize, with that driving and the kids that live, walk, drive, skate board in this area, to please -- that I implore, also, that you please consider not going ahead with this. Thank you.

[17:19:05]

>> Mayor Leffingwell: Okay. Those are all the folks signed up opposing the appeal and I have three minutes for rebuttal by the appealing party.

>> Okay. Here we go. A couple of things I think I never have been called before in my career is disingenuous or acting in bad faith. What I can say for all of you who know me around here, I have been in the restaurant business for over 25 years, most of which has been here in austin. I have developed restaurants that a lot of us go to all the time, austin java, uncle billy's, sci shores, little woodrow's, and I have worked very, very hard, like most of us do in our careers and in this particular case, those things that have been said about me are untrue. I will give you an example, we sat at planning commission through that process

-- by the way, we have gone through this process exactly the way the process makes you go through it, and it's taken almost two years to get through this. At the planning commission, we spent hours with the neighborhood. We proactively met with the neighborhood on a saturday. Both neighborhood associations were represented there. They had representatives there from both associations. There is a list of conditions that during the last planning commission we all agreed to every single one of these on the paper and we spent time negotiating these at that meeting. So I am not sure what is being said about me not meeting with these neighbors but every single one of these things, I agreed to do and -- with the exception of one hour, from 2:00 a.M. To 1:00 a.M. On friday and saturday nights and that was the one thing that I felt strongly about because it does impact my business, giving up that one hour, and there are other multiple bars in that neighborhood that are open until 2 in the morning. When we got to the planning commission and we talked about this list, the brentwood steering committee got up and withdrew their support at that commission hearing. I am not sure why they withdrew their support but we had agreed to all of these conditions prior to going into the planning commission, which, by the way, there were three votes for and two against. They couldn't get a quorum. There was only five members there. So we went through the planning commission process, and we could have gone to another commission hearing but we chose to come back to city council so that we could have one more final discussion about this project, and I am offended, quite honestly, with the negative discussion. I want this to be a positive

-- a positive thing for the neighborhood, and for the city and for little woodrow's and brooklyn pie, and I think we have established a very positive project here and all I can say is I would even go back to every one of these conditions, which was additional conditions, beyond the ones you all approved and run into the record, in addition to I also was willing to go and just split the difference and go from 2:00 a.M. To 1:30 a.M. That was my compromise on the final thing that was important to me, and if it meant [buzzer alarming] going down to 1:00 a.M., I would do that for this project. I really would, because I believe this project would be good for this neighborhood. Of course I hope to stay open until 2:00 a.M. So.

[17:22:42]

>> Mayor Leffingwell: Thank you.

>> Thank you very much.

>> Mayor Leffingwell: Council member morrison.

>> Morrison: I have a question. I was really troubled by the whole issue and wonder if you can help share your perspective on the issue of the liquor license in terms of the notice. Did you all do the notice? Did that fall through the cracks? What was your understanding?

>> No, the fact that some

-- I don't know if it was

-- the one person that's in this room that actually got the notice, that doesn't mean no one else got notices. It was the entire neighborhood because the entire neighborhood is not here. Notification requirement to send out that is part of the process and I have a liquor license attorney that does all of this for me at every location we have and we follow the process every single time, so the notices were sent out and the city was informed and the city was involved in the entire process. The fact that we were issued the permit ahead of time has more to do with how long it took to get through this process than anything and I never received a permit ahead of typically my building permit. This is the first time it's ever happened. I didn't issue it. It was the tabc.

>> Morrison: Right. So it is your understanding, then, that you notified each residential address and each established neighborhood association within 100 feet?

>> My understanding is yes, and I hired someone to do that for me, yes.

>> Morrison: Okay. Thank you.

>> Thank you.

>> Mayor Leffingwell: Council member spelman.

>> Spelman: You have a lot of people unhappy with you today, rick.

>> I can tell. [Laughter]

>> Spelman: It seems to me that most of the issues that the neighbors have raised, most of the issues that are contested here are things that you could reasonably do something about, but one of them seems to me to be really difficult and it is embedded in this site itself, and that is the number of parking spaces. You've got a restaurant of 1679 square feet. How many tables are you going to have at the restaurant?

[17:24:47]

>> I don't have it right in front of me but I believe the occupancy for the restaurant itself was about 20.

>> Spelman: Just 20.

>> Just for the restaurant, yes. There is only about 6 tables for the restaurant. The restaurant will be serving food for the patrons in the bar. That's the way I have got it set up at multiple locations. Nothing different.

>> Spelman: So there will be places to sit but you don't expect most people to be sitting. Most of the restaurant is preparing food for people on the other side of the divises line or whatever it is called.

>> Diadvertising wall.

>> The diadvertising wall, okay.

-- The divising wall, so you will I have 1800 feet of bar space, some will be bathroom and bar space and

things like that, how many people do you think will be in the bar?

>> Total, including outdoor patio and inside little woodrow's a total of 93 people. I am not sure where those numbers were coming out, 2-300 people. Total number of people is 93. The total number in the restaurant would be 20 and there is 41 spots available, not 31.

>> So why do they keep saying 31?

>> That's what is required. We are 10 in excess of what the requirement is.

>> Spelman: You have 41 spots. Of the 93 people in the bar, is that posted marshal walking out during a building, how will that work?

>> During the building personality, they issue certificate of occupancy and the fire marshal will do that based on the square feet and the square foot that the calculation comes up with. I agree with you, I think that a couple of things that haven't really been discussed are the

-- parking is always an issue, but we are already working on overflow parking. We didn't want to go too much further down this process until we get to this process. I work on on site parking at all the time on all my locations if it's required and if it's needed. At this particular location, there will be a ton of pedestrians, there are over 100 apartments being built within walking distance of this site. We will have a lot of pedestrians and a lot of bikers that are coming from the neighborhood that are walking.

[17:27:21]

>> Spelman: I believe you. I think you are going to get a lot of walkers, but it's also likely you are going to get a lot of people driving. It will be easier, most of your patrons you will be drawing from most of your area other than the five-minute walking distance. If you end up with

-- if you have a hot saturday night with more than 93 people in the bar, I bet there are going to be at least a few of those saturday nights when it's going to be standing room only and you end up with more than 93 people and you have people sitting over in the restaurant and you end up with 150, maybe 200 people in the bar, is that conceivable?

>> It would not be conceivable in this design.

>> Spelman: What do you mean it's not? Because it seems like you have the square feet for it.

>> You don't because the patio itself is less than 1,000 square feet. The inside of the restaurant, then -- the inside of little woodrow's will be less than 1400 feet, and so you are going to have the total numbers and then you've got the bar and you've got seating and these other things that are going on and that actually includes the rest rooms. There is no way you are going to have 200 people in this bar. I have multiple locations. It's not possible.

>> Spelman: Is there a way you can demonstrate for us the number of people you have on a typical weekend evening in the other little woodrow's locations?

>> This is

-- this will be the smallest location that we have, so

-- and we like the small locations, like on west 6th street. It is a small location and that building itself is about 1200 square feet. You can only fit about 40 or 50 people inside, max.

>> Do you actually get 40 or 50 people inside? Is there a way you can demonstrate to us

-- and I think the neighborhood, which believes, despite your propo stations that you are talking about 240 people here.

>> There is no way we will have 240 people inside that space. It's not big enough. Just from the locations that I have that are roughly around that size. Even austin java on parkway, I believe, is about 2400 square feet. There is 80 seats. That's it. Inside, the one on parkway, 12th and lamar, had been there 18 years.

[17:29:41]

>> Your bar behaved, people sit down at tables in chairs. You don't have people milling around.

>> Yes, we don't pull chairs out to try to stuff people into one location. It is place to gather with groups, happy hours, meet your friends, those kinds of things. This this particular case, there is also the restaurant servicing that, so there is table numbers and the runners for the food will bring your food over to your table. So it will act very much like a restaurant.

>> Spelman: Okay. Last question, and this is actually a city staff rather than you -- if any other people have questions, mr. Engel, then I will back off.

>> Sure.

>> Spelman: Hearing none, I will ask the city staff. Thank you very much.

>> Thank you.

>> Mayor Leffingwell: I have one for you. I have a question for you. So almost a year ago, we were in the same place in the same situation with the zoning case, realizing that there would be a cup process down the road somewhere, but I remember that discussion being very painful, very long. We got down and people were trying to rearrange square feet and find new parking places and all of this very painful compromise has worked out with the full knowledge, the full knowledge that this would be a place where people drank alcohol.

>> Spelman: Yes.

>> Mayor Leffingwell: And so here we are, a year later 6 having if same discussion and I kind of thought it was agreed back then that this was what this was going to be. What is different now? What is different now from a year ago?

>> You know, the only thing that is different in my opinion, because it has been laid out exactly the same way

--

>> Mayor Leffingwell: Did the numbers change? The square feet or parking spots?

>> The only thing that has changed is the number of parking spots that was actually directed by the director of transportation and planning commission to reduce the number of spots along burnet road because it was not a safe condition and of course we agreed to that and that lost 7 of the 11 spaces that are in question that we were told that we just came up with on our own in the last 3 days. Those 7 spaces were turned into

-- those 11 spaces were turned into four parallel parking spaces in order to create a safe pathway along the street. So the other four spaces were through the planning commission processes that we designed over the last year, the space

-- the site plan, one of the conditions that we agreed to back in the zoning was a one-way street from

-- a one-way exit from clay to burnet. We lost two spots in that process because of the direction of the spaces that were existing had to change their form. So this

-- all of the parking that was changed through the site plan process was directed either through planning commission or staff.

[17:32:42]

>> Mayor Leffingwell: We are knocking out parking spaces all over town so don't feel like you're

--

>> I would love to have them back, that would be great. I will take the 11 back if I can have them.

>> Tovo: I have a question for mr. Engel.

>> Mayor Leffingwell: Go ahead.

>> Tovo: The theys say a capacity for

-- it's working out to be 113 people on the site and you still have a pretty significant gap between the number of people and the number of parking spaces.

>> That's assuming everyone is driving there.

>> Tovo: I understand that. But we are talking about 70 people who

-- so you are anticipating

-- and so the 70 others will be walking?

>> I have areas where over 50% of the people are coming from apartments, condos, neighborhoods, things of that nature, which this particular area of burnet road is definitely becoming more of a pedestrian focused area, and so, yes, over time, I do believe that percentage will continue to grow, where we won't require as many parking spaces. Like I said, I am working on off site parking now to accommodate overflow if necessary.

>> Tovo: It is about a third. Do you have other locations where you provide a third

-- parking spots for about a third of the capacity?

>> I have two other apartments in the zilker neighborhood that are similar and in clarksville with austin java. I think it's very similar.

>> Tovo: Thank you. I want to better understand the 41 versus the 31, because of the meeting earlier this month and car share, you are required to have 31 parking spaces. You are providing 41. Is there anything in the cep process that requires you to use the 41 spots for this use. I asked that because we have heard testimony this evening from neighbors that have talked about the other two buildings and the fact they were marketed by the real estate agency until recently as today and so I want to be sure if you are saying there are 41 spots available for this use that those spots will continue to be reserved for this use and there is something in the cep tying to you that.

[17:35:14]

>> I have subsequently from landlord to allocate the spots from this two buildings to me directly so we know we have all 41 spots on site for this location.

>> Tovo: Will you say that

-- I didn't understand what you meant.

>> I have a separate lease. A separate lease, specifically allocating the parking spaces to little woodrow's.

>> Tovo: Thank you.

>> Cole: I have some questions of staff, mayor.

>> Mayor Leffingwell: Mayor pro tem cole.

>> Cole: I know when we discussed the zoning case, I believe there was like 52 parking spaces and I am trying to figure out

-- everybody saying that the department of transportation, this actually wasn't the applicant who reduced the number of spaces, that it was staff. And the neighbors are very concerned about inadequate parking so I want to understand how we got there.

>> Yes, ma'am. I can outline for you. When they had the zoning case, their concept plan showed 52 spaces. They've come back with actual parking tabulations that show by code they need 51 spaces. They get a core transit roadway deduction of 20% because of their

-- they are on burnet road. That requires 41 spaces, which is what they actually provide. That includes providing 7 spaces that are allocated to the warehouses. He is saying he's got an agreement to have those all to him. They also added the car to go space which gives him 20 space credit. They can't take the full 20 because that would take them below 40% reduction in parking so their actual limit is 31, so by code

-- the code and they are meeting those conditions, they can go

-- the requirement would be 31 with parking reductions. Does that answer your ...

>> The car 2 go actually reduces the parking requirement by 20 spaces? Is that what you said?

[17:37:18]

>> Yes, ma'am, it does. That is section 256478 of the code. And there are some additional criteria in the transportation criteria manual about how they do that, which they've agreed to comply with.

>> Cole: Okay.

>> They meet

-- without the car 2 go, they have a requirement with the 20% reduction from core transit roadway. They required 41. They have 41.

>> Cole: So you are saying the 41 excludes the car 2 go.

>> That excludes it.

>> Cole: Okay. We heard the applicant

-- or the owner actually talk about making more parking available on site, I guess, at the retail space that is contemplated now that's being marketed as a retail space. Have you guys had any discussions about that?

>> No, ma'am. I have not had any with him and the plan he presented showed those buildings as storage, which our parking requirement allocates 7 spaces to those buildings. You know, he's representing they are going to take

-- I guess they are going to leave them vacant and use those spaces for his establishment.

>> Cole: Okay. Let me ask the applicant about that because I am confused about the plans for that and what that is going to do for parking. Mr. Engel, are you still here? Who wants to talk ab that?

>> Mayor Leffingwell: Council member martinez. Mayor pro tem has the floor.

>> Martinez: I understand. I wanted to provide information to her because I had that conversation with

them previously. With this separate lease allocating those, I think it's 8 additional parking spaces, maybe 7, to little woodrow's, they wouldn't be able to use those buildings as storage or anything else unless they secured other parking within 1,000 feet, so they have to go lease other parking if they ever want to use those buildings based on the lease they have now given little woodrow's for those spaces.

[17:39:26]

>> Cole: So the plan is to lease

-- to look for off site parking at other locations, mr.

-- The conversation that you've had with council member martinez, I think you need to share with all of us.

>> Yes, that's correct. What I have agreed to do is provide all of the spaces that are allocated to the back buildings to little woodrow's so they will have ten parking, in excess of what is required.

>> Cole: So that's 51?

>> Sorry, 31 is what is required. 41 is what they are going to have.

>> Mayor Leffingwell: You did share that with us earlier.

>> Sorry.

>> Mayor Leffingwell: You did say all of this earlier.

>> Yes, yes, and I am basically shelving those buildings, but if additional parking was needed, you know, I am going to be looking off site parking to accommodate my use for them to lease them. Right now I cannot lease them. I said earlier and council member martinez is urging, the properties are off the market and they are not available for lease because we don't have parking for them. We would have to provide parking for them in order to lease them, and that parking would either have to come from off site or tear one of the buildings down to accommodate building for the lone building that is remaining.

>> That's what you are leasing?

>> Yes.

>> Cole: Thank you, mayor.

>> Mayor Leffingwell: Council member spelman. By the way, our options here are we can grant the appeal or we can grant the appeal with modifications or we can deny the appeal. So three options. Council member.

>> Spelman: I would like to have some of these

-- answer some questions about the conditional use permit. It sounds like it would be you. I am trying to stay within the boundaries of the conditional use permit. The

-- we issue a permit if we believe in advance that the applicant will be able to comply with all of these conditions. It's

-- this is

-- could be construed as an experiment. We think in advance he can comply with all of these, but it may turn out downstream that he is not able to comply with all of these. For example, and the obvious case we have been talking about is parking. Is there a test for whether or not an applicant who has a conditional use permit has, in fact, provided adequate and convenient off-street parking?

[17:41:56]

>> No, sir, I don't know that there would be after the fact. If he's represented on the conditional use permit and with his building permit drawings with his

-- he's got the square footages he's provided saying these are the parking requirements per the code and met those on the conditional use plan and he permits it that way, then he would have met the code. I don't know if there is a test to come back and offer anything else. One fact I would like to offer is if you are considering that the 41 is a requirement of the conditional use permit, you would need to read that specifically in, because as it's presented today, if you approved the appeal, it would

-- with his modified parking, it would be 41, although the actual code requirement for little woodrow's is 31, so he has

-- if you intend to

-- just clarification, if that's what you spend, you need to have that in the record. But I don't

-- to answer your question, I do in the believe there is a test to come back if they meet code requirements when we approve this, that would be the last check, other than building permits.

>> Spelman: One can read this in either of two ways. You are suggesting implicitly I read it one way and let me issue the two ways. One way is we have a formula on a square foot by square foot basis. Here is how many parks spaces you need and we calculated and you need 41 or 31 depending on which parts of the code, whether he has a car share and whether he is on a highway where we expect there is going to be late night bus service. One way or another, he has met the formula requirements. On the other hand, another way of reading the additional use permit requirement is that he has to do what it says, provide adequate and convenient off street parking. I can imagine a scenario where mr. Engel is incorrect, it turns out, his bar is wildly popular, lots of people show up and he often has 120 people instead of 113 maximum that he is expecting right now and if he is getting 120 people and they are not walking from down the street and driving their cars, we end up with cars parked in the neighborhood and from their point of view it is not providing adequate and convenient off street parking even though he met our formula. Is there a way that we can hold this case downstream up to the plain language of the conditional use permit or are we bound by the formula?

[17:44:24]

>> I believe the subjective portion of the conditional use, are these meeting those thresholds of convenient parking are the things that are of the council's discretion. If staff is saying they are a formula, and here it would be, I would have to ask law if there is a way to, you know, amend your approval such that there is a test later. I am not aware of that.

>> Spelman: It's always been my understanding that our reading of a conditional use permit requirement is very subjective. We have tremendous discretion in our reading of this, in part, for purposes exactly like this, and brent wants to say something, so let me hear what he wants to say.

>> I want to clarify it is totally within the council's authority to impose stricter parking requirements that are what are required under the base code requirements.

>> Spelman: Okay. Let me ask you a purely hypothetical. I have no idea what my six colleagues are going to do. I have no idea for sure what I am going to do but hypothetically, I can imagine a world in which we grant this conditional use permit but we are watching what actually happens to the parking and we may

find out hypothetically dun stream that we have 50 people on a friday night who are parking in the neighborhood. If we find that happens in a regular basis, clearly the applicants has not provided adequate and convenient off street parking on a subjective basis. He met the code. We issued permit. Do we have the authority to pull that permit?

>> I would have to confer.

>> You may notice your comrade in arms has sat down.

>> I keep going back to my seat.

>> You can answer a legal question, sir. [Laughter]

>> I am not sure I heard all of the question but I that

--

>> Spelman: I can repeat it if you'd like.

>> In terms of having the applicant come back again at a later time, our reading of the code and the law is that the council can

-- you can set a time limit on the cep, where the cep would expire after a certain period of time and at that point they would have to reapply and come back through the process. We are not aware of any provision in the code that allows

-- would allow the commission and you sit in the commission's shoes, you have the authority that the commission has, to require the applicant to sort of come back at a later time after the permit is issued.

[17:46:53]

>> Spelman: I don't think I could ever appoint anyone to the planning commission again if I were to subject them to another hearing like they had and like we just had. Is there another

-- let me offer another possibility and see what you think. We issue permit on indefinite basis, hypothetically, very hypothetically, but we watch the off street parking situation very closely and we monitor complaints from the neighborhood, which I expect to have some. If we find somehow that there is a lot of off street parking of this going on in the neighborhood, do we have the authority if we issue indefinite use permit, to review that permit at some unspecified date in the future and say, look, we have a lot of complaints about this. If you don't address them, we will pull your permit. Do we have the authority do this?

>> Council member spelman, not that I am aware of. Once the permit is issued, like I said, and I consulted with the planning director before he left tonight on this, as we were aware of some of these issues and the council, it is clear under the code you have the in authority to approve, hood phy, deny the the

-- modify the permit but in terms of the the applicant to come back and check in around parking or other issues, there is not authority in the code for that. You sit in the shoes of the planning commission and you have the authority that they have in the context of a cup and when a cup is issued, the -- cep is issued, the code requires minor admissions can be approved by the director in certain, very limited conditions but that is the only place the code allows there to be any changes once the permit is issued, so we would advise not starting down the road of imposing a requirement that an applicant come back after the permit has been issued.

[17:48:57]

>> Spelman: Okay. So we are now in the position of making what could be an objective decision taking seriously our own parking formulas, or making a subjective decision, which I think we have the authority to do, which in this particular case, we don't believe the formula is adequate. But once we've made the decision, it's made?

>> I think that's correct. I think also, though, you could

-- you could, as I mentioned earlier, but a

-- have the cep expire at a time certain and then at that point, then, it would be

-- the applicant would have to reapply, and as you said colorfully, go back to the hearing process.

>> Spelman: Nothing good happens after 10:00 o'clock and my language gets more colorful after midnight. Thank you, sir. [Laughter]

>> Mayor Leffingwell: Council member martinez.

>> Martinez: Sorry, brent, following up on mr. Spelman's thought process. You said earlier council can impose stricter conditions as we see fit. And I guess trying to pick up what he was referring to about this parking condition, that we really aren't sure how bad it's going to get. There is suspicion it's going to get pretty bad. Is there any way to impose a condition that patron or employee parking would be precluded on the neighboring streets as a condition that had to be met? If so, how would we enforce that?

>> The cup expiration is much dicier issue from a business decision stand point. You sign a five-year lease. You invest a lot of money and then you've got to come back for a cep12 months later and you haven't gotten a return on your investment what I am trying do is try to accomplish the same thing but put a condition that would be a requirement around that parking issue that we anticipate is going to happen.

[17:51:08]

>> Council member martinez, I think there would be enforceability questions posed with that but in terms of the council's legal authority, I think that is within your legal authority, that council has -- in addition to dealing with standard regulatory department, signs, operating hours, you have broad authority to impose other measures that the commission determines for compatibility of surrounding use or the preserva public health, safety or welfare, but in that council think it's reasonably necessary to even sure public health or safety or around compatibility around surrounding uses, it's definitely a condition within your authority.

>> Mayor Leffingwell: Is there a discussion on the motion?

>> Applicant asked to reapproach council, landowner to offer some compromises on parking if you wish to hear from him. It is your discretion.

>> Mayor Leffingwell: I will ask the applicant, the appealer what additional conditions he has to offer.

>> In speaking with the landlord just now, he just communicated to me that if we needed at a date certain, some additional parking, whether it be a year for now or whether it be a reasonable period of time, that he would be willing to guarantee some additional parking even if that meant to provide it whether it be off site or to raising one of the buildings, et cetera, but to get up to 51 number instead of 41 number, that would make everybody feel better about this by at least providing a buffer if it's

necessary.

[17:53:18]

>> Mayor Leffingwell: So council said add in a condition to approval that there be at least 51 parking spaces.

>> Yes.

>> Cole: I believe the original agreement was 52.

>> Then he will agree to 52.

>> Mayor Leffingwell: Council member martinez.

>> Martinez: Mr. Engel that would be on site within the premise? Or does that 52 including leased parking space? The reason I ask that is because that's significant. Our off site parking provisions as you know allows us to go as far away as 1,000 feet f. You are going to secure parking at sue patrick's, that's not going to do much good. [Laughter] can we

-- I mean, I would want

-- if we are going to go down this road, I make a condition it be adjacent to the property. I know it puts you in a tough spot and they are private property owner but there is 45 spaces just to the north of you and ...

>> I am sorry, I think that we could agree to 41 on site and then, you know, ten instead of within 1,000 feet, say within 500 feet, if that works

-- if that works better.

>> Mayor.

>> Mayor Leffingwell: Council member riley.

>> Riley: Can I ask a question of representative of brentwood neighborhood, I believe that would be mr. Henry.

>> (Indiscernible).

>> Okay, mr. Ladenburrow. Has the neighborhood ever considered residential permit parking in the area?

>> Yes, in fact, if it looked like it was swinging that way, we wanted to have an expedited process to get residential parking from 6:00 p.M. To 6:00 a.M. On clay avenue, the street most directly affected by this, because it's adjacent

-- sorry

-- you guys know.

[17:55:27]

>> Riley: So the immediate neighbors would support that?

>> I think the neighbors would clamor for that. I mean I can't

-- we have spoken to that before, that that would be a condition that, you know

-- because otherwise, they are not going to park 500 feet away. They are going to park on clay in front of everybody's house that was here.

>> Riley: One other question

-- I have seen a list of conditions that were proposed to be added to the cup site plan and it looked like the conditions that the neighborhood would have worked out with the neighborhood and I heard differing views as to whether there was any

-- I take it there was never any actual neighborhood agreement to that.

>> It was worked out with individual neighbors. Not with the steering committee or the neighborhood association, per se.

>> Okay.

>> Riley: What I am getting at is just a question as to whether there would be any openness to

-- to carrying on the conversation, given that we heard mr. Engel say he would be willing to go back to 1:00 a.M. On friday and saturdays and he indicated he is willing to agree to long list of other conditions, including prohibiting all outdoor live music and setting limits on the decibel levels and restricting all noise generating events and so on. Is there any

-- given all of that, including especially the 1:00 o'clock concession, which I don't think we have heard until tonight, do you sense that there might be any openness to be carrying on this conversation to try to reach some agreement?

>> The short answer is no. We think that all of those concessions were a step in the right direction and, again, with the parking situation

-- and there is a site planning issue and there is 7 compact spaces between the 31 which makes it that much worse. We could do a lot of things to put butter and call it bread but if it's not bread we are putting butter on, it doesn't matter how much we up consist that it's bread.

[17:57:52]

>> Riley: But we have heard some willingness to address parking issues as well.

>> So if the council is so inclined to pass this, we certainly would want all of those things and whatever more we could get to make a bad situation somewhat more palatable, but we

-- it's not enough and I don't think going back to the drawing board. This is not the site. As we spoke to earlier, it's just

-- if these other two buildings were gone and they could park 100 people on their site and have no access to the residential areas and it fronted only on to burnet road

-- those are the kinds of properties along burnet road that are appropriate for this kind of use. This isn't that site. We have an oblique roadways coming into this, it's immediately across from residential. It's just a problem site.

>> Mayor Leffingwell: Council member tovo.

>> Tovo: I have a couple of questions. The first is mr. Engel, please.

>> Thanks.

>> Tovo: I want to go back to the discussion about the restaurant

-- I forgot the name of it at this point.

>> Boston pie.

>> Tovo: Thank you and little woodrow's. Do you operate both of them?

>> No, I only operate little woodrow's. The other is a subtenant.

>> You mentioned runners. What is the relationship between your patrons and the food?

>> It would just be

-- it's element set up almost like a pizza delivery, if you will, except they have many more things on the menu and because it's in close proximity within the same building, if a patron at little woodrow's orders a pizza and a sandwich and a salad at their table, then they will have a system in place where they can call at the phone like on other locations or someone takes the order, it is made at the restaurant and brought over to the patron by a runner typically at the table.

[18:00:12]

>> Tovo: Do they place the order from little woodrow's or from boston pie. [Multiple voices]

>> Tovo: Sorry.

>> It would be the brooklyn pie staff.

>> Tovo: Brooklyn pie staff and they are next door?

>> They are next door and run the food next door out over to your table.

>> Tovo: So the delivery happens with the brooke line pie staff coming into little woodrow's, the actual placing of the order they may do by phone. I thought I heard you say something they could come to your table.

>> They may have a runner come to your table to take an order or by phone, where you have a menu on the table and you can pick up the phone around call and it will go to the order taker at brooke line pie -- like just if you called in for pizza delivery at domino's up the street, they will bring the food over and deliver it to your table.

>> Tovo: Thanks for explaining that. [One moment, please, for change in captioners] woodrow's,.

[18:02:13]

>> Tovo: ... One of the points is that I saw, I think it was our first question, it was a question, I think one I posed to mr. Zapalac. I believe I'm right in

-- I think one of our speakers here tonight talked about the difference between the parking requirements if they were just a tiny bit more or a little bit more square footage would be almost twice as much, I think. Is that about right? I guess let's start there. Would you mind reminding me what that relationship is? I think that I had one of the comments was twice

--

>> yes, ma'am. Parking requirements change based on the square footage. They were within -- is it like 10 feet? They are very close to the line, as some in the neighborhood have said. They have said they have gerrymandered the line on their submitted square footage, they are very close but under the threshold that would increase the parking.

>> If they were 10 more feet they would need twice as much parking.

>> Yes, ma'am, that are.

>> Tovo: We were concerned, several of us on the dais asked some questions of staff about that. I asked the question of mr. Zapalac, if the restaurant is serving patrons food

-- let me back up. Oh. A transcript being

-- what it is my grammar is not all that great. So I'm reluctant to read it aloud, but I will anyway.

[Laughter]. Sounds like uses that are all supplementing

-- or I guess I'm wondering if you could help me understand the parking implications of what sound like uses that are also supplementing little woodrow's. If the restaurant is serving patrons the food at little woodrow's, in some way it might need to be factored in the parking into a different location than we have before us. This is mr. Zapalac's response. You are correct, I should say we haven't reviewed the site plan yet it's been submitted. He talked about having a meeting with the applicant, looking at possible scenarios, et cetera. You have to be able to clearly delineate one use from the other. If the outdoor seating area is accessible to people from the bar, they can take their drinks from the bar outside, then that has to be calculated as part of the cocktail lounge, not as the restaurant. So those are the kinds of things that we will have to address when the plan is officially submitted. Then there's more from there. But I guess

-- given the relationship between the restaurant and the bar and the fact that there are employees going back and forth and they are so close to the parking limit, can you help me understand why staff aren't concerned about that? About what would appear to be really skirting that line between providing the adequate parking for a cocktail lounge of this size.

[18:05:12]

>> I believe the way our codes are set up, they are able to split the use. They have said this is a separate restaurant, separate by a demising wall. Yes, it's right on the line, it's at the boarder, but they have a separate use for the restaurant, separate space for the bar, sounds like they are separate entities, even, in this case. How we consider things that's how we do

-- councilmember spelman said it's our mathematical formula how we consider it. I believe for building code, I'm sure the applicant can speak to that because there are other locations that do the same thing, how it's considered when they get their building permit as well. Well. Sorry I don't have a better answer for you. That's how we have historically applied the code.

>> Tovo: I guess we could talk with the applicant about how much parking is provided at each of those other sites. Again, I wish mr. Zapalac were here so that we could ask him, you know, because it did sound like he was agreeing with my point that if the restaurant is serving patrons the food at little woodrow's, it should be calculated into the parking requirements for that cocktail lounge. Then again he does go on to talk about, you know, to add some other discussions and I trust mr. Engel, that you worked with him on the wall. [Multiple voices] forgot active the adjective for it. But anyway. I think that there is a legitimate parking issue here and again we kicked some of these issues down the road.

>> Spelman: Mayor, I have a very, very quick question of mr. Engel or mr. Nassour.

>> Mayor Leffingwell: Councilmember spelman.

>> Spelman: If we made you get 52 parking spaces, where would you or where would mr. Nassour get them?

>> I believe what mr. Nassour had said is that he would make sure that we were able to secure those within 500 feet of the site, if not on site. But certainly within 500 feet of the site if that became a problem. Or at a time certain if there was an issue.

[18:07:23]

>> Spelman: I think maybe that time has come. If that time has come right now, we made you get 52 parking spaces, which I think is what was on the table when we passed the zoning last year, help me understand how closely, within 500 feet, do you have an idea for where you'd get them?

>> I do have an idea where I would want to get them. I don't want to disclose that here, but I'll say within 500 feet, I think we'll have 41

-- we'll have 41 parking spaces on site, even if I have to tear down the building and then an additional 10, if not on site, within 500 feet.

>> Spelman: Tearing down the building is not an unreasonable thing to do given that you can't rent the building without more parking spaces anyway.

>> Well, you could represent the building if you had off-site parking. What I'm saying I will do is I will provide 41 on site even if I have to tear down the building.

>> You are already at 41. You don't need to tear any buildings down to get 41.

>> You're right.

>> Spelman: In order to get 52, you are going to provide parking off-site and you're telling me that you can do that.

>> Yes, sir.

>> Spelman: Thanks.

>> Mayor Leffingwell: Councilmember morrison?

>> Morrison: You know, I had voted against the cs 1 zoning in the first place, but I guess I'm going to say that we are where we are. There is cs 1 zoning and now we're looking at a cerebral at a cup. I'm very much willing to consider a cup if I feel like it can comply with what a cup is all about. I appreciate councilmember spelman actually taking a look at some of the details. I do think that the issue of parking is a subjective thing, it's in our discretion. The one that will jump out at me, though, is that it says here in the code that in terms of the criteria, a conditional use site plan may not more adversely affect an adjoining site than would a permitted use. And I just

-- it's not just the parking. I mean, I

-- I live about a block from 24-hour restaurants and they're not bars, but I can tell you that my good friend jerry kuno, who lived right across the alley for it moved because of the activity. It completely changes the

-- the quality of your life and so from my point of view it's the hours, it's the parking, it's the noise that's going to come along with it. And it is going to more adversely affect an adjoining site that would

-- than a permitted use would. And I appreciate everyone trying to find a way to make this work but it just feels like we're trying to put, you know, insert cliche here.

[18:10:25]

[Laughter]. Trying to put a square peg in a round hole or whatever. It just doesn't feel like it's going to work. And I think that we need to see

-- it's interesting to me I guess it was yesterday or the day before that I went to, we had

-- there was a ceremony here in the atrium for garner soul who was retiring, the guy that led our effort on the comprehensive plan on imagine austin. Imagine austin is all about finding the right ways to grow.

We need to have transition areas and this is a very unique site. It's a beautiful, beautiful building, the design of the building, I want to say that. I just really believe that we have not gotten to the place where we can feel comfortable that it's not going to more adversely affect an adjoining site than would a permitted use. With that I'm going to make a motion that we deny the appeal.

>> Mayor Leffingwell: Motion by councilmember morrison to deny the appeal. Is there a second?

>> Tovo: I'm going to second it. I'll just say a few things, I also voted against the zoning and I appreciate all of the really all of the testimony that all of you have provided. It's been a long night for all of us on this issue. And I know that you had some long nights before tonight. But as really in looking through as some of the neighbors mentioned, in looking through the evaluation of conditional use site plans, I don't see how we can, as a council, I don't see how I as a councilmember, I should say, can really say that it complies with the requirements on several points. The one that councilmember morrison mentioned, another one that I think is relevant here have building height, et cetera, I think all of that is not something that I want to talk about, but a use that is compatible with the use of an abutting site, I don't believe this has satisfied that either. This lot is right up against a residential neighborhood and all of those residents who have invested hard-earned dollars in their properties or investing their hard earned dollars in rent at the apartments nearby have a right to a high quality of life and so -- I don't feel that we're protecting your interests in approving a cup. So thank you. And I really do appreciate the applicant's information and your ongoing discussion on this. But I'm not going to support it.

[18:13:02]

>> Mayor Leffingwell: Seconded by councilmember tovo. Any other comments? Councilmember martinez.

>> Martinez: You know, I think we're struggling with this one. I think for me the issue was one of the things that comes up tonight and when I met with the adjacent neighbors, that was troubling to me is that we

-- we entered into conversations with all of these negotiations of what you wanted in this facility and then in the end we say it's just not right. We shouldn't do it. We should have said that all along instead of providing conditions to be met. Because that gives the indication that there is somewhere that we can possibly get to where it works. To where there is some compatibility. So that's troubling for me because when I met with you all, there were two issues that were paramount in our conversation. It was parking and it was the hours of operation. But then tonight I hear one of the speakers say it just doesn't matter. This just doesn't work. And that's troubling because all of us, you all as well have spent a lot of time on this through the zoning process and now through the cup process. I wished that we could come up with something. I felt like I might be able to make some conditions that probably wouldn't be received well, by the property owner. But that at least would make it

-- put me in a position of comfort where I was specifically addressing the two concerns that were brought forward the other day, that was the parking issues and the hours of operation. But if no one is willing to make a substitute motion, then I guess that I will just support the

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[18:15:09]

[indiscernible] denial of the appeal.

>> Mayor Leffingwell: Any other comments? Mayor pro tem cole.

>> I'm sorry, I just didn't hear councilmember martinez's last few comments. Did you make a substitute motion?

>> Martinez: I did not make one. I said if no one is willing to engage in that, which it seems like everybody was quiet about it, I would support the denial of the appeal.

>> Cole: Well, I'll make a substitute motion.

>> Mayor Leffingwell: Mayor pro tem cole?

>> Cole: I make a motion that we approve the cup, with additional criteria for 52 parking spaces, within 500 feet of the location, that the conditions that were negotiated and I need help with what those were, but I'm assuming that they were negotiated during the planning commission process with the neighbors. Can you come up, rick?

>> I believe they're in your folder. And it's

-- at the top of it it says conditions to be added to the conditional use permit site plan, the revision dated 12-9-2013. So there were six conditions with an asterisk and I think that you should all have this. I could put this up on the

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>> Cole: Good idea. Put it up. I think that I have it.

>> Have you got it.

>> Cole: Let's put it up on the screen.

>> You don't have it, I apologize, you will see it in a second, I'm happy to go through them.

>> Cole: Okay.

>> Mayor Leffingwell: Can we have a staff person go through those conditions, please, just to ensure neutrality.

[18:17:10]

>> Sure.

>> Cole: Can you tell us, were a part of the negotiations where the conditions were ironed out or are you just aware of them?

>> As staff we met with the neighbors twice as mentioned and the second meeting we were able to work on a lot of the commitments and further clarify them and add some additional conditions. So that was

--

>> Cole: So you are familiar with the conditions that you are going to tell us about?

>> Yes. These conditions are the same ones that staff has. They are 1, high quality security video is required for all bars entries, all bar entries, exits, service areas during all hours of operation. Such video shall be retained for a minimum of two weeks. Number 2, all live outdoor music is prohibited. Number 3, all noise generating events are restricted to the bar area, indoor bar or bar deck, nobody 4 sound levels restricted to the following at the property line of the area covered by this conditional use permit, a 70

decibels between 10:00 a.M. And 8:00 p.M. On sundays through thursday, b, 70 between ... Friday, saturday, sunday and c inaudible at the property line of the area covered by this conditional use perm at all other times. 5, all outdoor trash and recycling activities, dumping pickup times, et cetera,, are restricted to the hours between 7:00 a.M. And 11:00 a.M.6 all loading and offloading activities provided on site for city code and restricted between 7:00 a.M. And 5:00 p.M. Two asterisk items designated above may be modified for special events, a maximum of six days per week with two weeks advance notification to the brentwood neighborhood association and allendale neighborhood association. The hours of such events will be limited to the regular bar hours or 1:00 a.M. Closing time, whichever is earlier.

[18:19:19]

>> Cole: That includes the 1:00 a.M. Bar closing time for this location.

>> Regular bar hours or 1:00 a.M. Closing time, whichever is earlier.

>> Because the applicant has agreed to that, that is a part of the condition. Okay. I will include all of those conditions and as part of the motion as well as the parking requirement that I spoke of earlier.

>> Mayor Leffingwell: Motion by

-- to approve with conditions or modified approval by mayor pro tem cole. Is there a second?

>> Spelman: I'll second it.

>> Mayor Leffingwell: Seconded by councilmember spelman.

>> Cole: Let me just say

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>> Mayor Leffingwell: Councilmember cole.

>> Cole: This has been a difficult case from the beginning. This area of town, I'm very familiar with it. It's close to mccallum where all of my kids went to school. I know personally some of you and where you actually live and trying to balance actually having a little woodrow's and the commercialization of the area and the pedestrian nature of it with the single family neighborhoods is very, very difficult. I hope and have been trying to reach some type of compromise. I realize that many of you are not going to be happy with this compromise and I'm hoping that we did get some give from the owner of little woodrow's. But it's one of those cases that I feel like we need to move forward.

>> Mayor Leffingwell: Other comments? Councilmember martinez.

>> Martinez: [Multiple voices].

>> Point of clarification that we would like to ask to make sure that we are clear. In the conditions that you read in, it did not specify the closing hours as a condition in your permit, if

-- these conditions are asterisked at the bottom on special events when they could get exceptions to them. They have

-- there are hours that they have agreed to, I believe, in the documents we have before us. Also I want to clarify that the waiver of the parking within 200 feet is included as part of your conditions to make sure that's clear for the on site parking. But if you are intending to read in closing hours, the applicant has agreed to, to make sure that I'm getting these correct, previously sunday through wednesdays 12:00 a.M. Thursdays 1:00 a.M., Friday, saturday, and holidays was 1:30 was his proposal. I didn't hear you read those in with what you were proposing.

[18:21:50]

>> Cole: I thought it was fridays, saturdays, holidays closing hours would be 1:00, that's what the neighbors wanted, I wanted that to be a condition.

>> Thank you for the clarification, I believe that's in the record then. Then.--

>> Martinez: I wanted to ask on the 52 space requirement, 52 total with 41 on site and obtaining 11 within 500 feet?

>> Cole: Yes.

>> Give me just one moment. There's some discussion about what the closing hours that the neighborhood actually agreed to were. The applicant agreed to 1:00 a.M. On thursday, friday, saturday and holidays. Is that correct?

>> That was the closing hours that he agreed to with the neighborhood. I think that I read you 1:30, he's saying it's actually 1:00.

>> Mayor Leffingwell: Mayor pro tem cole said 1:00, so that's settled.

>> Cole: Thank you, mayor.

>> Spelman: Mayor?

>> Mayor Leffingwell: Councilmember martinez?

>> Martinez: I want to ask staff some other questions, just real brief. Do you know if there's on street parking on houston? Is on street parking allowed on houston?

>> Today it is not. That's my understanding. We had

-- we did discuss that on

-- with the transportation department, if it was a possibility. I think it could be explored but today it's not. It's not proposed.

>> Martinez: Well, then I would like to add the condition that on street parking for little woodrow's patrons or employees be precluded on clay as well and we expedite residential permit parking in other areas like longmont whatever neighboring streets want to apply for that.

[18:24:03]

>> Cole: T acceptable.

>> Mayor Leffingwell: To the second, is that? Okay. That's a friendly amendment. Two parts. Prohibit parking on clay, patrons or employees, and expedite the neighborhood parking process.

>> Martinez: Mayor, I would just want to finish by saying I realize that there is an enforcement issue. But there are other businesses that have to comply with parking restrictions. What they typically do is hire on site security during busy times to walk the premise and ensure that people are in compliance with this. I would suspect that would be

-- need to be the case because I realize enforcement is going to be an issue. If we have the latitude to impose that condition, I absolutely want to do that.

>> Mayor Leffingwell: I will just offer one more comment. , You know, it doesn't have anything to with conditions. But I think we're beginning to see right now the effects on businesses and others as we go around town eliminating or reducing parking places, virtually all over town. This is going to be a problem

for us in the future. People are making certain plans, they are not going to be able to follow through on those. We're going to see people that are in business or have been in business for a very long time going out of business because of this. And I just think that we need to proceed on that with caution. I don't think we have been doing it in the past. It's been administrative work. Not subject to council review. But I would strongly advise and suggest that in the future we take all of these factors into account a little more than we have in the past. The vote is on the substitute motion with all of the conditions. In favor say aye.

[18:26:10]

>> Aye.

>> Opposed say no.

>> No.

>> Mayor Leffingwell: That passes on a vote of 4-3 with councilmember riley, tovo and morrison voting no. I believe that completes our agenda for tonight. Without objection, we stand adjourned at 12:26.