

## City Council Regular Meeting Transcript – 11/12/2015

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[10:12:00 AM]

>> Mayor Adler: I'm going to convene the Austin city council meeting. This is November 12th, it is 10:11. We are in city council chambers. We're going to move forward with our agenda. Let's figure out what's on consent. We have three items that look like they've been pulled for speakers. Let's confirm that. Number 16 is pat Johnson and David king. Are they here? Pat Johnson? And David king? Is pat Johnson here?

>> He's here.

>> Mayor Adler: Oh. I'm sorry. Thank you. Do you still want your name on that item?

>> I'm for it. I don't have to speak.

>> Mayor Adler: Don't have to speak. Okay. Then we will call 16, then speaker pat Johnson as a consent speaker on that item. On item number 29, gust peña, David price, and David knoll. Is Gus peña here?

>> Right here.

>> Mayor Adler: Thank you. Is James price here? James price is David knoll here? We have two speakers. On item 32, we have two speakers, Gus peña is here, James price. So 32 is a consent speaker.

[10:14:03 AM]

So being pulled then is just item 29. On the consent agenda, let me read changes and corrections. Items number 17 -- I'm sorry -- item number 7 and 13 are being postponed to November 19th. Items pulled off the consent agenda, item number 2 is going to go into executive session before we vote on it. Item number 4 has been pulled by councilmember Gallo. Item number 6 has been pulled by Mr. Zimmerman. Item number 8 and 9, pulled by councilmember Gallo. Item number 10 pulled by Zimmerman, troxclair, and Houston. Item 11 and 12, pulled by councilmembers troxclair and Zimmerman. Item number 17 pulled by councilmember Zimmerman. Item number 21, pulled by councilmember Zimmerman. Item number 29 pulled by speakers. The items that I'm showing again being pulled are item 2, which we'll -- we'll hear in executive session, item 4, 6, 7 being postponed till the 19th, 8 pulled, 9, 10, 11, 12, all pulled, 13 being postponed to 11/19, 17 pulled, 21 pulled, and 27 pulled, 29 pulled.

[10:16:32 AM]

27 -- I'm sorry, 27 was not pulled. I'm sorry. 29 pulled. Okay?

>> Mayor some.



>> Mayor Adler: Yes.  
>> Gallo: If I could -- I don't know if you want me to pull it or just make the request, but on item number 28 we would like to be added as co-sponsors.  
>> Mayor Adler: Okay. Show Ms. Gallo added as a co-sponsor on 28. Is there a motion approve the consent?  
>> Zimmerman: Mr. Mayor, I have --  
>> Mayor Adler: We have a couple of speakers to speak.  
>> Zimmerman: I'll make that motion once the exceptions are read in.  
>> Tovo: Mayor, can you remind us -- are we doing the consent zoning as part of the consent agenda as well?  
>> Mayor Adler: No, I'm just taking us up to item 32 to start.  
>> Tovo: Thank you. Did you need a motion for the consent agenda?  
>> Mayor Adler: Mr. Zimmerman moved for it. Mr. Zimmerman's motion is subject to the following notes and vote indications. Mr. Zimmerman is abstaining on item 5. He is abstaining on 14 and 15, voting against 16, abstaining on 18, 19, and 20, abstaining on 25, abstaining on 27.  
>> Zimmerman: That's correct, Mr. Mayor, thank you.  
>> Casar: Mr. Mayor?  
>> Mayor Adler: Yes. Councilmember Casar?  
>> Casar: I'm certainly for 27 and a co-sponsor but I believe that there are a couple of last minute amendments several co-sponsors wanted to add on to that so let's pull that so we can add onto that quickly.  
>> Mayor Adler: All right.

[10:18:34 AM]

Then we will pull 27 as well. All right. We have some speakers to speak on the consent calendar. Pat Johnson, then David king, and then Gus peña. Is pat Johnson here? Sir? Would you like to speak on the consent agenda? You have three minutes.  
>> What item?  
>> Mayor Adler: These would be items 14, 18, and --  
>> 14 and 18 are kind of together.  
>> Mayor Adler: I'm sorry?  
>> 14 and 18 is kind of together, the same thing.  
>> Mayor Adler: Right. You have three minutes you can speak oh all of them.  
>> All right, sir. This is about money. In case some of you don't know what this is, this is money that's given to us under the Ryan white act --  
>> Mayor Adler: I'm sorry. Excuse me. 14, 18, and 16 and 32, if you had signed up for any of those. Those are the items.  
>> So I've got 14 and 18, we're talking about?  
>> Mayor Adler: Yes, 14 --  
>> Then the two insurance deals have been pulled.  
>> Mayor Adler: 29 has been pulled but 16 and 32 are on consent. So 14, 16, 18, and 32.  
>> All I want to talk about is these two issues.  
>> Mayor Adler: Please go ahead.  
>> Council, this is kind of hard to talk about. I've survived HIV and AIDS for 32 years. Every day I wake up, it's a miracle. We've got serious concerns about the Numbers on this grant here, where it talks about the administrative agency is going to get \$119,505 of that Ryan white money.



[10:20:35 AM]

That's our money. Federal law specifically states that no more than 10% of a grant given under Ryan white part C cocaine used for administrative purposes. Next slide, please. If you figure 10% is \$86,000 so that's \$32,000 they've taken out of our money that goes to us that need the support. The hopla money that's suspended by AIDS services of Austin, since my case manager retired, I can't get no assistance at all. Austin energy did away with the dill due on the 29th where you had five days before the late fee kicked in. We don't get our social security disability checks until the 3rd so we're paying an extra 10, \$15 a month in late fees. When y'all developed the customer assistance program, you stripped out the ssdi, and those of us who live with AIDS draw social security disability income. And we're not getting any cost of living expense increase this year. Increase next year. I'm going to be forced to sell my home and move into an independent living facility because the Numbers that they give y'all of the money that we need, they put up so many roadblocks, we don't have access to this money. Why we've got to give David Powell, who's operated by community care, who's funded through the Travis county health district, that we pay an extra tax for, 400 and some-odd thousand dollars of hopla money, of Ryan white money, to another agency when that money should be kept within the city of Austin health and human services so they can dispense those funds.

[10:22:47 AM]

[Beeping] So I want you to ask staff to sit up here and explain to you why they're going to take an extra \$32,000 out of this grant when federal law says they can't have any more than 10%. And look out for us out there, because we're a dying breed. I don't expect to make it through the year, mayor. Thank you.

>> Mayor Adler: Thank you. Next speaker on the consent agenda is David king.

>> Okay. Thank you, mayor, mayor pro tem, and councilmembers. Okay. Sorry. I thought that was an emergency. So I was -- I'm speaking on item number 16, the Latino health care form, funding for outreach and for enrollment on the affordable care act. I think this is a really important resolution here. I hope that y'all support this, and what I would just like to ask you to look at in these programs is, there's a concern that the co-insurance, these insurance policies, these insurance companies are increasing the co-insurance on these holes holders, and that's becoming very costly and expensive, so I hope that we're able to take a look at that part of the program to see if we can -- if we can do something about that. And also, that some of the most effective drugs that are more expensive are not on the drug list, and so the patient has to fight to get those on the drug list. So I support this, but I hope that the city can work with these insurance companies to address these two concerns. Thank you very much.

>> Mayor Adler: Thank you. Gus peña.

>> Good morning, mayor, councilmembers, Mr. City manager. Gus peña.

[10:24:49 AM]

Proud native east austinite, proud United States Marine Corps assessment our United States Marine Corps veteran is 240 years old, occurred on Tuesday, November 10th, 1775. I want to thank those of y'all who were at the veterans day parade. I saw you, mayor. I saw my lovely ora Houston there, my bud. Thank you very much. And I think I saw a couple of others, I can't remember who, but this item has to do with just set a public hearing to consider resolution for an application, et cetera, et cetera, for an entity to build a proposed affordable family development. Mayor, the goal was not reached to house all homeless veterans. That is disgraceful. Number one. Number two, and I'm not defaming anybody, I'm not disrespecting anybody, but Ann Howard's count and everybody else's count was exceeded by the Numbers they allegedly counted 252 homeless veterans in austin-travis county, again. I say -- I'm not



going to say it. What I'm going to say is this. We're intelligent people. When we support an entity for post-development, if it is appropriate -- I hope it is appropriate -- let's set a standard or some amount of units of affordable housing for homeless individuals, homeless veterans. We have too many homeless single family veterans with children that are homeless. That is the category, the main category, and also the families that are being left out of the loop, so whenever we support a resolution or just support a letter or whatever, Mr. Mayor, look me in the eye. Please remember that. Because families -- we have more families now that are being left out of the loop, and singles get more housing. That beautiful affordable housing right near the capital, that's drug alley.

[10:26:51 AM]

Ask APD. Pick up the Numbers. This is the data. We need more housing for families and single females with children, single female veterans with children that are homeless. I don't know if we can mandate this issue to the people we support. They go to tdaca for housing credits but we need true, blue affordable housing. We need also transitional housing. I've been saying that since mayor Tuttle was mayor. Ask him. He will tell you that. We need that, please. And support this. Again, mayor, you asked me to help you out. Okay. I'm going to help you all out. I'm here to help you all out, but be honest with us. Beclouds you were going to be inclusive. You didn't. You didn't reach out to us. And that, to a United States Marine Corps veteran, is a slap in the face. We'll help you out. Thank you very much.

[Beeping]

>> Zimmerman: Mr. Makers I want to raise pint of privilege and say thank you to district 6 for your efforts to house the homeless veterans. Thank you very much for this campaign you've waged. I don't think anyone should blame anybody for falling short of a noble goal, so again, thank you.

>> Mayor Adler: Thank you. And for what it's worth, I would point out that the goal still remains and we're getting close, and we are building up momentum, and we will get to the place where we have effective zero veteran homelessness in this city.

>> I hope so, mayor.

>> Mayor Adler: I hope so, too. We have another speaker on item number 7 that I want to give a chance to speak on the consent agenda, Royce Cavanaugh. This is an item that's going to get postponed till next week. Does Mr. Cavanaugh want to address the council?

>> Is there someone else from health and human services to address the question that Mr. Johnson raised about the appropriation of funding?

[10:28:56 AM]

>> Mayor Adler: Can we pull up someone to address that?

>> Or if we could get someone from health -- I think Stephanie is here.

>> Mayor Adler: Thank you.

>> Good morning. Uh-oh. Excuse me. Good morning. I'm Stephanie Hayden, the deputy director for the health and human services department. And I would be glad to sit with the gentleman that just came up, Mr. Johnson, and have a conversation with him. But there are several things that I would like to bring to your attention. So he is correct, there is a 10% administrative cap for the grant, but the way the grant is set up, 86,000 of that money goes to administration, and then 32 goes to quality management, and how that is -- we lumped it in together, and so, basically, when we break it out and submit it to the grantor, the grant has a requirement for quality management to happen. And what happens with that is, is that we ensure that all of the data is entered and everybody is receiving appropriate services. What we can do is, is that we can follow up with him to better understand his individual concerns about the ssdi, with Austin energy, the inability to contact his -- you know, his case manager retired, if there's not a



replacement, for those programmatic things, we can talk with him and get a better understanding because, ultimately, the client is number one and we like to ensure that they're getting the services that they need.

[10:31:01 AM]

And as far as David Powell, currently there is not another provider in the area. We conducted a solicitation a few years ago, and there is not another provider that was willing at the time to step up to provide those HIV services. So -- but, again, I would be willing to talk with him and see any additional concerns that he may have because we ultimately want to take care of our clients.

>> Thank you, Ms. Hayden.

>> You're welcome.

>> Mayor Adler: Thank you.

>> Houston: Mayor?

>> Mayor Adler: Yes, Ms. Houston?

>> Houston: Before we move off that subject, this has come up about Austin energy before, about people who got fixed incomes at a certain time of the year, and evidently, according to Mr. Johnson, there used to be a five-day window, and so I'd like to know, can we implement something again so that - I'm one of those people, on the second Wednesday of the month, I get my social security check. If my - you know, I have the ability to pay if my bill comes earlier than that, but some people don't. And so I think that's causing them some real hardship when we know they're on a fixed income and we know that it's a federal check that they're getting, that we don't have the flexibility to allow them some flex to pay their bills.

>> Mayor Adler: Okay. The manager says he'll take a look at that with staff as well.

>> Thank you.

>> Mayor Adler: Yes. Ms. Gallo. You need to turn the speaker on.

>> Gallo: I was going to say, we've received that message, too, from people that are receiving social security checks, and that becomes an issue with the payment of the bills, so we're happy to add that to the Austin energy agenda so that staff can come forward at that point and make a presentation to how we can address that appropriately.

[10:33:01 AM]

Thank you.

>> Mayor Adler: That would be helpful. Thank you. Okay. Cavanaugh here? Royce Cavanaugh? Okay. We're going to move then --

>> Mayor, I'm sorry. Excuse me. They'll figure this out. Maybe not. Maybe it's a message.

[Laughter] The applicant and the neighbors requested and agreed to a one-week postponement on that. Rio just wanted to be here, Mr. Cavanaugh, to say he agreed to that one-week postponement.

>> Mayor Adler: That was number 7? The speaker would have said that he was in favor of the postponement. That is part of our consent position. Okay. It's been moved and seconded, the consent agenda, with the notations that we have made. Those in favor, please raise your -- yes.

>> I just want to be shown abstaining from items 5, 14, and 18, and I would like to add item number 16 to our list of things to be pulled. I think it's really similar to item number 17, so I just want the opportunity to evaluate those two items together.

>> Mayor Adler: Okay. We've added now to the list, number 16 being pulled.

>> Garza: And I'm sorry if I missed it, but what was the conversation about item number 27? Is that included in our --



>> Mayor Adler: Item number 27 has been pulled.

>> Okay. Thanks.

>> Mayor Adler: Okay. Those in favor of the consent agenda with the notation, please raise your hand. Those opposed? It's unanimous on the dais. We'll now then hit the items. We're going to hold off on number 2 until we go into executive session so that we can address that. That gets us to item number 4. Ms. Gallo, you pulled that item.

[10:35:07 AM]

By the way, I would also read into the record, we have late backup on items 36, 38, 39, 57, 70, 71, 74, 78, 80, and 81. Ms. Gallo, you pulled item number 4?

>> Gallo: Thank you very much. My question on this for staff is that it's not very clear when we're reading the resolution information and the agenda item, when we talk about grants, if there is any other matching funds or financial contributions required from the city. And so if you could address that on this particular -- this particular grant. And then I would also ask if we could make sure that our backup information has that notation because just -- I know we have grants that the city has to come in and match. We have grants that it may not be an equal amount, but the city is responsible for some fiscal contribution to the process, and it's just not real clear on our information whether that's the case or not. So that would be the question on that, is there any -- is there any matching funds that would have to come from the city on this grant?

>> Jim Smith with aviation. This is a process we've been using for ten, fifteen years, to expedite the receipt of grants. The reason for that is, most of the way that we get our grants from the FAA is when other airports at the end of the funding cycle have not expended dollars and FAA makes that money available to airports on a prearranged need, but they have to be executed very quickly. So it's kind of like a last-minute grant to help pay for some of the construction projects. These are not grants to initiate new types of services, but merely to help write down our costs of building air field improvements for safety reasons and things like that.

[10:37:07 AM]

So from a historical perspective, this approach has helped us execute those grants quickly and apply them right away. So we're not talking about grants that require us to do something or expend city funds that has not been reviewed previously. These are generally grants to help write down the cost of capital projects that the council has seen in a five-year forecast, then get a budget, then when we hire an architect, then again when we hire the construction firm. So most of these cases the council will have seen these things four times by the time, you know, we actually execute the project.

>> Gallo: Okay. Thank you. That's helpful. So I guess my question, a little bit more specifically, would be that -- what I'm hearing from you is, this plan, which sounds like it works for getting grants that are available to us at the last minute, through various sources, can be dealt with and approved very quickly, but I want to make sure that if we are doing this with these, that if there is any situation where it would require matching funds or funds coming from the city, that that would come back to council. So I'm okay with this, as long as I think what I'm hearing you say is, in this situation, none of these opportunities are ones that would require additional funding from the city. Is that -- am I hearing that correctly?

>> I hate to say none, but 98% of everything that we receive at the airport is for construction projects, to help break down the cost. When the FAA sees it's in the interest of the airport to proceed with this from a safety reason. I can't recall a single granted where it was for a new program that the airport was being asked to initiate that required us to match the funds. Not that those won't happen, but if that's the



general direction, we can commit that if one of those types of grants were to come along, that we would bring it through the Normal process. This is really to deal with construction money.

[10:39:09 AM]

>> Mayor Adler: So it would be accurate to say that there's no money being put up by the city associated to pull down this grant that we would not otherwise have been spending.

>> For example, the --

>> Mayor Adler: Is that --

>> We have a 90 million project to increase the apron out in front of the terminal for the expansion. To the degree we get any grants, we have to spend that 90 million. To the degree FAA gives us grants, it writes down the 90 million --

>> Mayor Adler: I think the question is, there's nothing about accepting this grant that has us spending any additional money than we would have spent other than having received the grant.

>> No additional money. Right.

>> Mayor Adler: Thank you.

>> Gallo: Thank you. And mayor pro tem tovo, that might be a discussion for your committee, which is in a situation like this, for us to have a policy that, if, for some reason, a grant was received that would require some additional money from the city, that we have a process for bringing that back to the council, so --

>> Mayor Adler: Okay.

>> Gallo: Thank you. Thank you for answering that question.

>> Mayor Adler: Is there a motion to approve this item number 4? Ms. Gallo moves, seconded by Mr. Zimmerman. Any discussion? Those in favor, please raise your hand. Those opposed? It's unanimous on the dais. That gets us then to item number 6. This was pulled by Mr. Zimmerman.

>> Zimmerman: Thank you, Mr. Mayor. I was just looking for a little bit of information on this. First of all, I want to say I appreciate the fact that we do have the interlocal agreement in front of us, and I've asked for that on numerous occasions, so I'm happy to see the agreement that we're being asked to vote on, instead of a negotiate and execute. So I want to thank staff for that. I want to call attention to page 6 of 12, under point number 9, the so-called performance measures. And I say "So-called" because I frequently talk about my engineering background and how I used to measure things for a living, professionally, and can somebody explain to me why these bullet points are considered measures?

[10:41:22 AM]

Because I don't see any way to measure them. A level of public participation, if it comes to the measuring the temperature in this room, if we were going to evaluate the effectiveness of our air conditioning system, we should measure centigrade or celsius and we might argue about the accuracy of the thermometer but we have an accurate measurement. Here it says the performance measure is levels of public participation. What does that mean? You know, how do I measure that?

>> Doug Matthews, chief communications director. Levels of public participation is essentially the Numbers on participation for the events that we hold. So what are the levels consistent with our expectations? This is intended to be smaller group conversations who are meeting our goals, which is generally 10 to 12 people per event that's held. And then how -- and as you move down the list, when you talk about the demographic participation, that is how well does that participation reflect the demographics of the community at large.

>> Zimmerman: So my own opinion on that is, that is unbelievably subjective. It's so subjective that it's meaningless as a performance measure. It's completely meaningless. In other words, if I had ten people



show up, I would go, oh, wow, that's a pretty good level of participation. Someone else could say that's a ridiculous -- ridiculously small level of participation. It should have been a hundred people. Should have been a thousand people. You know, it's so completely subjective that it isn't a performance measure at all. So I -- I guess I don't know, Mr. Mayor, if I can make a motion to postpone a decision on this until we have some kind of objective performance measurements. You know, it needs to be some percentage of the people involved, something that's objective, because I don't see any objectivity -- the first -- the last one says how sentiments toward the city, the district, capmetro, and the county, to public engagement change over time.

[10:43:42 AM]

So sentiments are not something I can objectively measure. They're completely subjective. So -- yeah, I'm going to make a motion that we -- that we postpone consideration of this item until we have objective performance measures.

>> [Off mic]

>> Mayor Adler: Sorry. Mr. Zimmerman moves to postpone item number 6. Is there a second to that motion? Seeing none, is there a motion to approve item number 6? Ms. Garza. Second? Is there a second to that motion to approve? Mr. Casar? Ms. Pool, I'll recognize for the second on that. Any discussion? Those in favor of 6, please raise your hand. Did you want to say something?

>> Yeah. I was just going to say this is adding Travis county to the existing interlocal agreement that was approved earlier this year?

>> That's right.

>> I appreciate your efforts in trying to improve public engagement, but I don't think that councilmember Zimmerman's requests were something that you couldn't put together, so it would be great if next time -- you know, I guess this is a pilot program, so when would the pilot program end?

>> We're going to take a look at it over the summer and then make determinations.

>> Troxclair: If there's going to be a request that we continue the program I think it would be great to include performance measures at the time. Thanks.

>> Zimmerman: Mr. Mayor, as a point of information, it says under item 7, duration, it says the agreement is one calendar year, starting April 2015, and it has two automatic 12-month renewal periods. That tells me it'll be three years before we see it again.

[10:45:43 AM]

>> Mayor Adler: Okay. Any further discussion? Those in favor of item number everywhere, please raise -- I'm sorry, Ms. Houston?

>> Houston: I'm sorry, you all might have, but could Mr. Matthews address the last question, is that two renewals for three-year total?

>> Mayor Adler: You want to address that?

>> The way the contract is created is that if we feel the program is moving forward the way that we want it to then we can go ahead and move it forward without having to recycle it to council. Our responsibility is to take a look at it this summer and decide whether or not it's meeting our engagement objectives because we all have an investment in the success of program. I'm not interested and I don't think any partners are interested in continuing that if we don't feel like it's meeting the goals.

>> Houston: Just for my information, and this can be offline, if you can give me some kind of understanding of the amount of engagement that you've had from people in other districts outside of the central area, in district 1, specifically, I would like to know what kind of engagement we've done.

>> Absolutely.



>> Houston: Thank you.

>> Mayor Adler: Any further -- Ms. Garza?

>> Garza: This is the interlocal agreement, so there's automatic renewals for the interlocal agreement, if you get together and decide this isn't working, then this would be done. Correct?

>> Then the interlocal would be moot because we wouldn't budget the funding for the program.

>> Garza: Okay. Thanks.

>> Mayor Adler: Ms. Houston.

>> Houston: But again, Mr. Matthews, I need to know whether it's working for all of Austin, just not? Not just some of Austin. How will I get that feedback?

>> We'll prepare reports for the first few months of the program and you can get an indication across all districts. We do divide it up by district.

>> Councilmember Houston, I think on the conversation website, it has previous months and it shows how many people went and what the conversation was and so it's on -- if you could send us a link to that website.

[10:47:51 AM]

>> Absolutely.

>> Thanks.

>> Mayor Adler: Further discussion? Those in favor of item number 6, please raise your hand. Those opposed? Mr. Zimmerman voting no, the rest voting aye. The next item we have is item 8 and 9 pulled by Ms. Gallo.

>> Gallo: Thank you, mayor. I just had -- let me first say, I see, too, in anything that we can do to accelerate small business start-ups, not that I'm support of. I just had a couple of questions about this. And it was unclear to me, with the money, the hundred-thousand-dollar contract, is that going to support the operations of the program, is it admin fee, or is it actually going to the start-up companies? How does the funding work?

>> Good morning, I'm assistant director of economic development. It's actually going to the programmatic cost of teaching the corings for the business owners.

>> Have we been doing this in the past, have we had congratulate money in the past?

>> No. This is a new concept we had, based on a study conducted by one of our small chambers, the hispanic chambers. We're looking at the growth of small businesses over the next two to three years, and we felt that it squared, because of their demonstrated performance around the world, such as Monterrey and Poland, they actually approached us in doing something in Austin to help fast-track businesses. So we're going to partner with them to select 20 to a hundred companies to participate in this program in terms of modeling to strengthen their revenues and to double their employees. And it's part of the program, their business research sector of it squared would actually measure these companies in terms of taxes generated, the number of employees hired, those who may come from challenged backgrounds to help us determine the success of the program.

[10:49:54 AM]

So we think it's critical because of the growth that we see coming forth from all small business sectors, and we just want to help them fast-track.

>> So has the university indicated to you that they don't have the resources or ability to actually do what we're providing 1\$00,000 to do?



>> This program is actually much more than that. This is the amount not to exceed. There are other programs in Mexico, much more, this is a number we've kind of worked towards, and the companies will also have to pay a portion. So, again, this is a much reduced cost.

>> Gallo: But my question is, has the university of Texas at Austin indicated that they don't have the resources to be able to pay this component, that they need our participation in to do that?

>> Yes, they need our participation.

>> Gallo: All right. Thank you.

>> Houston: Mayor?

>> Mayor Adler: Yes, Ms. Houston.

>> Houston: I'd like to ask a question about the demographic makeup of the 20 to 100 companies.

>> We will be starting with our minority chambers to select applicants from there, and then we will be doing marketing to open it up. So we're going to start with the chambers that we are currently involved in for them to identify potential companies that are within that fast-track program that would be successful, and then our small business program. It's a step model, so we have certain courses that we provide, but this is going to be an intense eight-week to twelve-week program that we believe will double their revenues, help them double their employee size, et cetera. So we will start with the chambers. And if we don't find the hundred companies, then we will open it up. But our goal is to get started no later than February 1st.

>> Houston: And so is it tradition here -- I haven't been here so I have no tradition. Do you give us feedback periodically about --

>> For this program, yes, we will definitely be providing feedback because we're hoping to continue this on in the next year.

[10:52:00 AM]

Again, we have a census that other studies in terms of the number of potential small businesses that could grow and be developed, and so that's the audience we're going to attempt to capture.

>> Houston: Thank you.

>> Mayor?

>> Mayor Adler: Yes. Ms. Troxclair?

>> Troxclair: Since I'm hearing that this is a new program that you hope to continue in future years, do you have -- I hear you talking about, you know, us hopefully serving a hundred companies and hoping to double the revenue of the small businesses. Do you have those concrete performance measures written somewhere so that next year when we go to evaluate the success of the program and talk about continuing funding, we can see whether or not we --

>> Exactly. The three key measures is going to be the taxes generated, the number of employees, the revenue, the increase in revenue that the companies will see.

>> Troxclair: But do you have your -- the number goals for each of those categories?

>> It will be dependent -- once -- each company will be interviewed, and depending on their model, you can't say, well, for ten companies, because one may be a baker, one may be a shoe store. So we have to evaluate their financials and say, when you come in at the end of this program, if you're now with five employees, your goal at the end of this is to obtain the skill set so that you can double that, or double your revenue. So I can't, across the board, because they're going to be apples and Oranges. It's going to be a variety of companies that we'll work with.

>> Troxclair: So even after you identify the companies and talk about their different businesses, then can you come up with --



>> No. There are three basic measurements that we would definitely track, the number of employee -- increase in employment, the increase in taxes generated, and the increase in revenue. So those are the baselines.

[10:54:01 AM]

But depending on the company, there could be other measures that we would --

>> Troxclair: Okay. But my question is, you know, are you looking for a 20% increase in revenue, are you looking for --

>> We're looking to double the employees and revenue.

>> Troxclair: And we have -- and we have those documented somewhere.

>> Ic squared has demonstrated track record in other countries to accomplish this, and so that's why we are partnering with ic squared.

>> Troxclair: Okay. It's just, I guess on this item and the last item, knowing that these are pilot programs that we're hoping to continue in the future, it's going to be really helpful in a year from now if we're able to look back a year from now and say, yes, we met our goals, so it's important we have those goals set.

>> Yes. And before we set the contract, we'll have it established, and at the end of this pilot program, we'll be glad to generate a report because we will needed it too.

>> Troxclair: Okay. Great. Thanks so much.

>> Mayor Adler: Is there a motion on approve item number 8? Ms. Gallo makes the motion. Seconded by Ms. Garza. Any further debate? Those in favor of approving item number 8, please raise your hand. Opposed in it's unanimous on the dais -- no, Mr. Zimmerman voting no. That gets us to item number 9, pulled by Ms. Gallo.

>> Gallo: Thank you, mayor. A couple of questions about this. Also, I think that if the presentation on our recommendation council sheet could be a little bit more specific, maybe some of the questions you hear over and over again, that would help us have a little bit better ground information, and not have to pull these. So the questions I had on this were fairly similar, which was what the use of the funds would be. Is it going to be for operations? Is it going to be actually for developing the tool?

>> Again, synovia with economic development, it will be for actual developing of the tool. Two years ago we engaged bizarre voice, which is a productivity sector local company, to help us streamline information.

[10:56:02 AM]

We called it biz right, to help business owners learn what they need not to do before they expand. This funding, we applied with the sba and won a grant for 50,000. There's no match -- to expand the tool. So business owners will be educated before they actually approach development department. So if I want to convert a gas station into a restaurant, you can actually put in the questions. There will be responses of examples of what people have done. Maybe some rules and regulations. So it's just to expand into the third module that we didn't have the first time.

>> Gallo: Wonderful. And thank you for acquiring grants that don't require city matching. That's -- I appreciate that. So if -- it sounds like we're developing a tool that will be used wrong range. Will there be any additional costs for the long range implementation of the tool?

>> Just the monitoring of the tool, and you all have already approved business information specialists in the development service department to maintain the tool.

>> Gallo: Okay. Thank you for that. Thank you. I'd like to move approval if there's not --

>> Mayor Adler: Ms. Gallo moves approval of item number 9. Is there a second to that? Ms. Pool. Furs discussion? Mr. Zimmerman.



>> Zimmerman: I have one more question. Thank you, Mr. Mayor. I want to refer to page 1 of 1 in the ordinance here in the backup material in part 1, where I want to focus on two -- two quick questions here. It says to provide entrepreneurs with online tools to apply for permits and licenses in one day or less. The two questions are the definition of an entrepreneur, and what the existing application fine is now. I can maybe give a little levity to it. If I were to go out on my own and say I'm a self-employed entrepreneur, my political add varies will say no, you're an unemployed loser. What makes you an entrepreneur?

[10:58:04 AM]

This is kind of definition, in terms of qualifying for funds. And secondly, what is the time it takes to make the application now? If the money is speeded up, what is it now?

>> I would need to defer that time frame to development services, but an entrepreneur could -- I could be an entrepreneur, someone who is starting a business or has their own business, and if they want to expand to prevent them from standing, say, hours in line, they can go on and educate themselves before starting the process. What type of permits? It's -- it's based on our small business, which walks you through different steps of applying for a permit, what may be needed, what things you need for a small business if you want to expand out, versus, say, in your home.

>> Zimmerman: So I guess so the people -- say an entrepreneur has got a small business already started. You probably will get feedback from them. What are they saying that it takes them to get through this cumbersome process? Does it take a week, a month?

>> Well, the one reason that we started this process a couple of years ago, there was a small business that expanded. I can't recall the name, but didn't realize the number of parking spaces they needed. So if this tool has been in place, they could have gone in, did some research before expanding, versus expanding, then finding out more spaces were needed, so they wouldn't make a mistake. So the tool is an educational tool to help them make smarter decisions before expanding.

>> Zimmerman: So I think I understand. So the tool educates you how heavy a burden is.

>> No, the tool can help educate you so you make wiser choices before starting the process. Seconded.

[11:00:10 AM]

Those in favor? Those opposed? Mr. Zimmerman voting no, Mr. Casar off the dais. The next item that we have is item 10 and 11 pulled by Zimmerman, troxclair and Houston.

>> Zimmerman: Thank you, Mr. Mayor. I think we're going to have staff talk about this and then we'll have questions.

>> Kevin Johns, director of economic development.

>> Houston: Mr. Johns, I pulled this so understanding what we're doing and why we're doing it and who it's going to benefited. So that's why I pulled it.

>> Thank you. As you know, the international economic development plan that the city was recognized as the top economic plan with any major city in the world for its just of the [inaudible] Of the city, hispanic Asian populations to use them to help develop connections in other countries and to further local businesses to become multinationals. The state department approached the city to see if we would be interested in a grant which is a half million dollar grant which would go to the Asian chamber of commerce to monitor for three years and to work with entrepreneurs, in this case from Pakistan, we hope in later years it might be from Mexico or it might be from Brazil or other countries. The goal is for over a three-year period the Asian chamber's disspread that is Pakistani would work to build local companies to get into the 200 million population marketplace in Pakistan and vice versa, that those companies could partner and expand into America.



[11:02:22 AM]

So I have a representative of the Asian chamber of commerce here and the Pakistani community as well. If you would like details on the question -- on the program itself, some of it is detailed there, but we have staff that can answer those questions. But if we wanted to work with South Africa or we wanted to work with Brazil or other countries, this is the first of what we would hope would be a pilot series of projects that would be funded by the federal government to introduce entrepreneurs that would partner with our local entrepreneurs and then develop multinationals.

>> Mayor Adler: Yes, Mr. Zimmerman.

>> Zimmerman: Thank you, Mr. Mayor. The first comment, but I think there are other people who will talk to this but let's start with just a reminder that the federal government is about 19 trillion-dollar in debt and I cannot fathom why foreign countries think they have money to start a program that spend more and more and more money that we don't have. So in general, I'm opposed to these kind of schemes because we don't have the money in the federal government. We're 19 trillion-dollar in debt so it's a great place to vote no on this. And the second thing is, as you said, the goal of it is not just one little isolated incident, it's to create a whole new bureaucracy and spent countless millions more over the years and you have to ask yourself when we're done why did you do it. If we equitably did it to all places around the world, why even start? Let's just be equitable and not start. Let's not target anybody for special treatment. That's the reason I'm going to be voting against this.

>> Mayor Adler: Okay. Any further discussion on this item? We have speakers? I'm going to call both items 10 and 11.

[11:04:33 AM]

Mr. Pena. Thank you, Mr. Johns, if you would sit down. Mr. Pena, Gus Pena, do you want to address this? The next speaker is John Nelson. Mr. Nelson? Next speaker would be Jason birch Garza. Next speaker would be Mohammad faredy. You have three minutes, Mr. Faredy.

>> Thank you, Mr. Speaker and Mr. -- Today I'm here to say something in support of Austin, Texas and packs -- Pakistani entrepreneurs

[indiscernible]. I just heard that something that embassy is funding, that's fine embassy is funding, but actually this is interaction with the people

[11:08:39 AM]

... Against terrorism. The economic opportunities in my country and especially in my city have died down. The youth is drawn towards terrorism because there is no opportunity available. There are excellent minds available. Mr. Zimmerman pointed out why this money is going towards Pakistan. Because this money has been sitting there the last two years. And if the city of Austin doesn't approve this, it would not go to anybody else. It would sit there. Because this money is located for entrepreneurs. It would be a simple matter of Numbers for city of Austin if they accept \$500,000 or no, but it will be a lifetime opportunity for a person sitting in administrative

[indiscernible] Of Pakistan. A young man who will be thinking about business entrepreneurs, but if he doesn't get opportunity to come here to start a business to get trained or to get in coordination with the businessmen here, get educated and do good for Austin and for his country. This is our -- say again, it will be a number -- just a number for city of Austin. But it could be an opportunity for so many people, so many youth, young members of groups who can start up their entrepreneurs and get opportunity to



do good. And it could benefit city of Austin too because the community here, Pakistani community here wants opportunities. They want opportunities for their youth. Thank you so much.

>> Mayor Adler: Thank you. Any further discussion on items 10, 11 and 12?

[11:10:41 AM]

Ms. Houston.

>> Houston: Mayor, I just need to ask Mr. Johns if the -- if the grant from the federal government is for two years. Because --

>> Mayor Adler: Is there a motion on Numbers 11 and 12? The mayor pro tem moves and Ms. Pool seconds.

>> Zimmerman: I would like to make a motion to amend 11 and 12 to simply strike the word and execution. So items in 11 and 12 would read just like they do now but it would say authorize negotiation of agreement [inaudible]

[11:13:20 AM]

>> Mayor Adler: Mr. Zimmerman and Ms. Troxclair. Those opposed raise your hands. We're back to approve 11 and 12. Further discussion?

>> Casar: Mr. Mayor, just a suggestion that, you know, the amount of time -- I understand councilmember Zimmerman's dislike for the negotiation and execute and if we want to have a discussion on that and four co-sponsors were at a committee we could handle it then, but I think the taxpayer dollars wasted and the amount of time we sit there going through every amendment at times - it just doesn't seem a good way of going about it. I would prefer if that's an issue that needs to be handled, we can handle it -- I would advise just vote no on this contract so we don't keep doing this every time.

>> Mayor Adler: Further discussion on the approval of 11 and 12? Ms. Troxclair.

>> Troxclair: I guess I will just say on behalf of councilmember Zimmerman that he did try to bring this up at work session on Tuesday but because of time constraints we didn't have a conversation about it on Tuesday. So, you know, I guess we're always pressed for time and I understand what you are saying and I just didn't want him to feel like he can never ask a question.

>> Casar: And I would say certainly have the right to amend it, just it -- I just wonder how many times we'll go through it.

>> Zimmerman: Mr. Mayor, I could answer that for you and the council. I'm going to keep doing it because I think it's a terrible practice to keep voting for spending when we can't see what the agreement is and we don't know what the metrics are as to whether the money was used wisely or if it ended up getting wasted. This is the way we waste taxpayers' money. We don't see what we're voting on, we don't know if it's effective or not.

>> Mayor Adler: Okay. Further discussion on 11 and 12?

[11:15:20 AM]

Seeing none, those in favor? Those opposed? Troxclair and Zimmerman voting no. The rest voting aye. So 11 and 12 are approved. Before we go -- the next thing I'm going to call is the consent on zoning and planning. Ms. Pool.

>> Pool: I just wanted to toss a little information, I guess it would be a point of clarification. Okay. There were a couple of comments on debt and that the national debt is really high and that's a really bad thing and I will say economists and financial experts say some is a good thing and as a budget surplus item I



will point out that the last time our nation had a budget surplus was during the final years of president Bill Clinton's it's been going up -- it started going up in 2000 and 2001 and under president Obama it has been cut by more than half its height at -- in about 22 -- 2009. Just a little bit of factual clarification on our national debt and budget surplus.

>> Mayor?

[Applause]

>> Mayor Adler: Yes, Ms. Gallo.

>> Gallo: I just want to thank our economic development department and just mention something that is a true example of what we do in Austin that helps economic development. My staff and I last night had the opportunity to go to a premier of a movie called "My all American" and it's a movie about Freddie steinmart who was a U.T. Football player that played on the 1969 championship team and it's a wonderful story. What was so important -- what is so important about this movie that comes out tomorrow and I encourage you all to go see it and take your families, it is filmed in Austin.

[11:17:23 AM]

The executive producer actually is an Austin resident and one of the lead players in the movie is Justin street, who is James street's son and was really almost scary how much he looked for his dad for those of us that remember his dad. It is a true example of the things we are doing in Austin and we thank the department for making sure those things happen. I would encourage you all to see it, it's an Austin movie and talks about U.S. Football. A couple of my staff are aggies but they suffered through it. Just wanted to put a plug in for economic development in Austin and things being done in Austin that half.

>> Mayor Adler: Thank you.

-- That help.

>> Mayor Adler: We also have a consent -- today is supposed to be a zoning meeting primarily. We have a lot of people waiting for items I think that can be handled on consent on the zoning portion of the agenda. Let's see if we can work our way through those. Do we have staff here able to do that? Is Greg here?

>> [Inaudible]

>> Mayor Adler: He's probably running in. All right. I'll go to another item, but I'll make that request to then come back to this. The next pulled item that we have is item 16 pulled by Ms. Troxclair.

>> Troxclair: Item number 17 had been pulled earlier and I just saw item 16 was very similar so I just wanted to opportunity to hear the answers to the questions on item number 17 so that I could use that knowledge with my vote on that of number 16.

>> Zimmerman: Mr. Mayor, I would concur with that. I think they are both dealing with the Austin taxpayers paying to assist with signups to the ACA so they are related.

[11:19:27 AM]

>> Mayor Adler: Let me call up those two items, but first since Mr. Guernsey is here.

>> Zimmerman: Works for me.

>> Mayor Adler: Let's handle that so we can let some people leave.

>> Good morning, mayor and council, Greg Guernsey. Planning and zoning. I'll run through the items that are consent and available for action. First item is item number 23. This is for property located at 7104, 7106 Bennett avenue located in the St. John's/coronado hills to change future land use map to neighborhood mixed use. This is ready for consent approval on second and third readings. Item number 35, the zoning case, case c14-2015-0050 for property located at 7104 and 7106 and 7108 Bennett avenue, neighborhood plan or Ir-mu-c ---ready for consent on second and third readings. 36, I would like



to delay this item. The owner has not signed the covenant and I want to get a couple clarifications on that before I present that to you. Item number --

>> Mayor Adler: So you don't mean to postpone, you mean to pull it from the consent agenda.

>> Pull it from the consent agenda.

>> Mayor Adler: Okay. Item 37, case c814-2012-0152, this is the pilot knob. I understand council would like to discuss this particular item.

>> Mayor Adler: Yes.

>> 38 and 39 involving the reason united presbyterian church, these will be discussion items zilker park park --

[11:21:44 AM]

>> Mayor Adler: I said we would call this up first so when we [audio resync].

>>> The zoning change request to townhouse and condominium residence, neighborhood plan or sf-6-mp combined district. The planning commission recommendation was grant community commercial mixed use conditional overlay neighborhood plan for tract 1. And townhouse condominium residents conditional neighborhood plan for tract 2 and that is ready for consent approval on first reading only. Item 43 will be a discussion item. And the related case, number 44, for the property located.

>> Shady lane is also discussion. Item 45, npa-2015-0009.01.

[11:23:44 AM]

The property located at 1800 Pennsylvania avenue. This is change to future land use map to single-family land use. The planning commission unanimously recommended and this is ready for consent on all three readings.

>> Mayor Adler: Hold on one second. Ms. Houston, you had indicated on items 45, 46, 47 and 48, do you want those pulled off the consent agenda?

>> Houston: Yes, I want them pulled off the consent agenda because I need to have item 47 voted on last.

>> Mayor Adler: Okay. So we're going to come back to 45, 46, 47 and 48.

>> Item 49, npa-2015-0015.01 for the property located at 5017 and a half alp avenue. This is to change the future land use map to utilities land use. The planning commission recommendation was to recommend utilities land use and this is ready for consent approval on first reading only. Item 50, the property located at 5017 and a half Alf avenue and 5109 and a half Wilcox, this is zoning change to public-neighborhood plan or np combined district zoning. The planning commission recommendation was a discussion by council would like to talk about

[11:27:20 AM]

>> Mayor Adler: Which number?

>> That's 58. In 1901marism Posa. Applicant has requested postponement to December 10. That's item 61, postponement to December 10. Item 62, staff understands council would like to pull this item for discussion.

>> Mayor Adler: Pulled by Mr. Casar.

>> Item 63, for the property located at 1507 nueces street, I understand there is a discussion postponement on this item as well as the related I'll get you the name --

[11:29:30 AM]



>> Tovo: Mayor pro tem, if I may, these are two properties that are I believe it's the resident in the middle has requested the postponement. He was here this morning. I'm not sure that he was able to stay, but he was not -- has not had an opportunity to meet with the applicant, was not aware of the zoning change and would like an opportunity to get some more information about that case, which I think is very appropriate. Again, they are two rezonings and it's the property in the middle and frankly we haven't received contact from the applicant either so I'm interested in having a bit more time as well.

>> Gallo: And thank you, mayor, and the question is because in a little bit we're going to have the discussion for request for postponement and I want to make sure as we go through this process we we understand very clearly who is requesting and what our policies are on requesting postponement on different items. Thank you for the clarification.

>> Mayor Adler: We're not agreeing to postponement, it just means at that point we're discuss the question of postponement at which point we could be discussing policy.

>> I understand there are parties present that were here making that request for postponement.

>> Zimmerman: Mr. Mayor, I have another quick request. There are quite a few items where it will say conduct a public hearing. So isn't it implied that those are off the consent, we don't need to read those, they can't be consent because it's a public hearing agenda item.

>> Mayor Adler: I'm looking at the people signed up to speak and I'm ensuring anyone who has people want to go speak at the public hearing will get a chance or speak on the consent agenda. So everyone who signed up will get a chance to speak.

>> Zimmerman: Just by the rules, does it ever make sense to just pass on consent something marked as public hearing? Wouldn't we have to bring it up and formally close it?

[11:31:30 AM]

>> Mayor Adler: In effect that's what's happening. Please continue.

>> Item 65, c14-2015-0105, property located at 1213 west slaughter lane. This is a request to neighborhood commercial conditional overlay to change conditions of zoning. The zoning and platting commission's recommendation was to grant the Irco to change zoning and this is ready for consent on all -- to grant the commercial conditional overlay and this is ready for consent approval on all three readings. Item 68c14-2015-0111 for the property at 603 west eighth street, the applicant as requested indefinite postponement. Should this item come back it will have to be renotified before it's placed on the agenda. Item 69, c14-2015-0115 for the property at 4222 south ih-35 service road. The applicant has withdrawn this request. No action is required.

[11:33:31 AM]

Item number 70 is case c14-2015-0118 for the property located at 6707 emerald forest. Staff understands a councilmember would like to pull and discuss this item.

>> Mayor Adler: Pulled by Ms. Garza.

>> Item 71, c14-2015-0120 for the property at 13401 palm strings road, change to community commercial. The recommendation was to grant community commercial conditional overlay combining or gr-co and this is ready for consent on all three readings. Item 71. Item 74, c14-2015.

>> 0121, staff is requesting postponement to December 10 agenda. Item 73, case c14-2015, 0123 for the property at circle S road, this is a request to change to family residence district zoning. Zoning and platting commission recommendation was to grant the sf-3 and this is ready for consent approval on all



three readings. And 74, c14-2015, 0127 for the property at northwest quadrant of Ross road and pierce lane, I understand at our work session we had a discussion there's an agreement to postpone

[11:35:57 AM]

>> Mayor Adler: So they will have a chance to speak when those items are pulled. It's been moved and seconded to approve the zoning consent agenda. Any discussion? Those in favor please raise your hand. Those opposed? It's unanimous on the dais. That will let a fair number of people go. Thank you, Mr. Guernsey. We'll pick back up on the agenda. I think we were at items 16 and 17 relating to insurance enrollment. Is there a staff here to speak to that question? Ms. Troxclair and total of 200,000 with the

[11:39:57 AM]

passage of these items?

>> Yes because

[11:45:20 AM]

>> We can get that information back to your office.

>> Mayor Adler: Okay.

>> Mayor?

>> Mayor Adler: Yes, mayor pro tem.

>> Tovo: I would like to ask our staff whether the time that would need to be spent to compile that data. We had a situation recently where I had brought forward a resolution and it was asking housing staff to pull together information, most of which was already completed, about our fee in lieu -- our density bonus programs and how many affordable units had been constructed on site. We followed up and said where is the information and we're told the time that was going to need to be spent to compile that information was to bring forward a resolution to get go forward and collect that information. I say that along with a piece of information that most of that information was available, a piece of it wasn't that completed that was going to require staff time. I just want to have a consistent practice. It sounds like what councilmember Zimmerman is requesting will require a fair amount of staff time to ask the agencies to compile and I would like feedback on whether that's accurate. Maybe those agencies already have that information but if they don't and it will require staff and agency time to do so, then I guess I would suggest that be a council resolution that come forward, receive majority support before we ask all of those individuals to provide that information. I'm very satisfied support supporting these two items without that information and that's the other context I'm asking that question.

>> Yes, ma'am, you are correct. It will require additional staff time and research as well as, you know, working with the agencies to gather that data. So it will take some significant time. It's not something that I can go back to my office and send today.

>> Tovo: I guess I would just suggest with all due respect, councilmember Zimmerman, I think -- I think I would suggest that that be a resolution that you bring forward and if it's supported by the majority that it move forward, but I look forward to hearing what my colleagues have to say about that.

[11:47:34 AM]

>> Kitchen: Mr. Mayor?

>> Mayor Adler: Yes, Ms. Kitchen.



>> Kitchen: If I'm understanding councilmember Zimmerman is asking if people stay on the program or drop off. I'm not sure that information is available and how you would get it. That would require the federal government since we don't have a state exchange to identify individuals for you about whether or not they are still on the program. So in addition to taking a lot of time, I'm not even sure that that kind of information is available absent going back and asking each one of the people that signed up. I would support what councilmember Tovo is saying. The purpose is to get the folks choosing to get enrolled, they are not required, and I think that's an important purpose for our city and actually it saves us dollars in the long run.

>> Pool: Do we need a motion?

>> Mayor Adler: Ms. Pool moves approval of items 16 and 17. Is there a second to that? Mr. Renteria will now continue our discussion. Further discussion on these items?

>> Houston: Yes, mayor, thank you. Those who don't know who the affordable health care act is but I think at some point we need to look at cost per person to do whatever it is we're doing. Then how often are we doing that. Maybe people do fall off and do we then go out and reenroll them.

[11:49:39 AM]

I think as we spend money we need to have some data to say that this is cost effective what we're doing.

>> Mayor Adler: There's an item to approve 16 and 17. Mr. Zimmerman.

>> Zimmerman: Thank you, Mr. Mayor. I'd like to speak briefly against the item here. I think there's a pretty clear distinction, kind of in philosophy, I agree with my colleagues and staff that it is expensive to collect data. It can be difficult and time consuming and expensive to collect the data to measure the effectiveness. I think what I'm hearing is we have a spending problem in the city, and I'm trying to scrutinize. I think councilmember Houston is as well, we want to scrutinize these expenses. But if the argument is we're going to spend \$300,000 but it's too expensive to measure the effectiveness so let's just vote for it anyway. In my clearly.

[11:52:00 AM]

>> Tovo: To ask our staff to require to get that data, then I think they should move forward and do it. But I don't want to be really clear when we have direction from the dais that it does have majority support before we're asking for that significant investment of time and taxpayer resources to do so.

>> Mayor Adler: Miss Kitchen, then Mr. Renteria.

>> Kitchen: My comments were going to the fact for privacy reasons and data availability reasons. I don't know that -- I think it would be difficult if not impossible to get that information about individuals. I appreciate what councilmember Houston is asking, you know, which more relates to, like Numbers enrolled and things like that rather than individuals and that kind of information I think would be useful. I would say that -- and this is very difficult to come up with also, but I would say if we at some point are going to have a discussion about the value of helping individuals enroll, we have to take that in the context of a lot of other factors because, you know, other factors related to the cost savings to our community and to us as a city for someone being enrolled in insurance. So ...

>> Mayor Adler: Mr. Renteria.

>> Renteria: And I agree with my colleagues on that. As someone that has a lot of minority [inaudible] You know, either they go to the emergency room and without health insurance, that's costing us money.

[11:54:15 AM]



So we need to -- we need that kind of service in our community. And I'm going to be supporting this.

>> Mayor Adler: I'm also going to be supporting this resolution. I think that the issue raised by Mr. Zimmerman and the mayor pro tem is something probably the transition committee where we're putting these things should take a look at. Seems to me that as you work through there has to be some balance and opportunity for somebody who is taking a minority position in something to be able to get the information and data to be able to make their case or their argument. And I would hate to deny staff assistance to a councilmember that's trying to do that. At the same time, I think that it's a balance because we obviously can't be asking staff [inaudible] To do lots of different things. So there's a balance involved. So I would ask miss kitchen if you add that to the list of things I think would be good for the transition committee to take a look at. Any question on fumes 16 and 17?

>> Houston: The only thing I would like and I

[11:58:40 AM]

>> Excuse me, 0103, restrictive covenanted termination for property located 1801 Pennsylvania avenue. Planning commission recommended denial but I'll offer this for consent given the other three cases so we would offer those on the consent agenda. In addition agreements that been struck between the applicant and neighbors, the postponement issue regarding 63 and 64, item 63 is case c14 2015 zeroed 93 for zoning change and at, and case 64, for the property located at 507 west 16th street. The parties have agreed the applicant agreed to the neighborhood request for postponement on both items 63 and 64 to December 10. For postponement. So I'd offer those for consent approval.

>> Items 43 -- I'm sorry, 45, 46, 47, 48, and items 63 and 64 on consent. Someone move adoption of that consent agenda?

>> Houston: I move adoption.

>> Mayor Adler: Ms. Houston does it is there a second to that? Ms. Pool seconds that. Discussion?

>> Houston: I need to make some comments about the -- the Mt. Zion Baptist church and the neighborhood. I want to thank both the agents and the members of the congregation for working with the community to reach an equitable agreement so I will be supporting their consent agenda as it's posted.

>> Okay. Any further discussion on those consent items? It's been moved and seconded. Those in favor please raise your hand. Those opposed. Ms. Garza is off the dais. The rest voting aye.

>> Thank you.

>> Mayor Adler: Thank you very much. I'd also point out to the councilmembers on item number 79, red bluff, that we've been carrying on and postponing the -- the parties have agreed to a proposal on that.

[12:00:46 PM]

It has been posted on to the bulletin board in case you or your staff or the community want to take a look at -- take a look at that. It is noon so we're going to move to conditions communication. After citizens communication we'll go into executive session and I'll announce that at that time. First let's do citizens communication. The first speaker signed up you to speak for us is pat Johnson. The speaker would be Charlene bell nwagboso. Charline bell. Next speaker would be ruby Roa. Is Ms. Roa here? Next speaker would be Carlos Leon.

>> Carlos Leon. Austin, Texas on November 12, 2015, to speak what's right. First and foremost, gracias, adios for letting me warn my fellow Americans. Like liar and chief Barack Obama, Dr. Ben Carson makes false statements and exploits emotion to misrepresent himself and manipulate voters' hearts and minds to overlook his political inexperience and unseen handlers.



[12:03:06 PM]

In his book "Gifted hands" Carson claimed he was offered a full scholarship to West Point though West Point does not offer scholarships and has no record of Carson applying, much less be extended admission. In his book, "A more perfect union," Carson wrote quote.

>> Mayor Adler: The constitution and its defenders have kept America on a steady course. Free from a government that imposes the will of the elites on the people. However, America has cycled through ups and downs, booms and busts throughout her history and the Cheney Bush and Biden Obama regimes have imposed unconstitutional elite agendas on us like the Patriot Act, Obamacare and Obama trade. Last week Carson launched southern blacks and posted a personal letter on photocopy about his adding -- Facebook about his alleged life journey to distract from you knowing that on December 2014 Carson went to Israel as a guest of face of Israel, a private group that sponsors trips for influential decision makers to promote a positive image of Israel and counter threats to Israel's self-proclaimed legitimacy. Afterwards Carson pledged his support of Israel. Therefore, because Carson has repeatedly compromised himself by his words and actions, Carson cannot be trusted to righteously lead our country.

[12:05:12 PM]

Stop the marketing madness. Guess real. In Jesus' name I pray. Imagine Austin. Thank you, Lord, and God bless Texas and the nation at large.

[Buzzer sounding]

[Off mic]

>> I think the city clerk handed everybody one of these. This is a contract between [indiscernible] -- The council nishly passed the auto return contract a couple months ago. Councilmember Casar and everybody agreed that if all 40 of the current rotation record companies were not allowed to participate in the contract that you'd cancel the contract. Well, it's simply not happening. This contract has got so many stipulations it will basically make it not equitable or financially able to participate. If you have some tow company owners in towns that been in business for 50 years that don't even know what a smartphone is. They have to buy these phones, these expensive equipment. Now look here on page number 18 of this contract. Incidentally, see Southside's name on here. This was a Southside contract but we want to show you this contract because Ron Perry with auto return said Bobby knew it was Southside and Henry Jones with Aus Tech and Lakeside doesn't have to sign the same contract, they want the other 40 companies. It says on page 18, the rate for a light-duty tow, which is most of the small cars that are towed is \$100 plus 80%.

[12:07:17 PM]

Now, state law in Texas does not allow tow companies to mark up a receipt. If they're only paid \$100, the consumer picks up his car and bill is \$193.30, you got a \$93 difference there. \$150 of that is going to be the tow fee. That's by ordinance. So you're going to pay the tow companies \$100 out of \$150 tow plus the consumers are going to get hit with that \$25 administrative fee. Now, we know for a fact that Southside over the has maintained its contract for 20 to 30 years. He specifically said two months prior to the contract being awarded that he has A.P.D. in his back pocket. We have zero regulation in the unit after they reorganized it, and according to the chain of command of the record detectives they're not allowed to enforce a certain part of the statute that talks about deciding. There's statutory language and verbiage on the sign that cannot be deleted or omitted. And because of this practice, this influence



pedaling by bobby nu, who had the contract addendum changed for more to max points, they went out and spent \$15 million buying new contracts.

[ Buzzer sounding ] None of these other 40 companies had that ability to go out and expend that type of money. So this contract, if they want them to sign that you specifically said if they can't participate you you'd cancel the contract. There's ten of the companies that are not going to participate because they don't want to be held hoes hostage and work for less money than what the city ordinance says the regulated fee should be.

>> Mayor Adler: Thank you.

>> So take this into consideration. This is a document that y'all signed with the city to award a contract that was rigged from day one.

[12:09:19 PM]

>> Mayor Adler: Thank you, sir.

>> Thank you.

[ Applause ]

>> No. Thank you.

>> Good afternoon, I think, is it?

>> Mayor Adler: It is.

>> 12:09. Mayor, council, my name is ruby Roa, a member of Austin women and [indiscernible], and I want to share a couple of stories concerning unsafe substandard housing in our so-called livable city. In 2003, as a leader with Austin interfaith, I worked with Dolores church, St. Albert the great and Ann Teich a leader with Austin interfaith on a complex of 128 units called fairway village which is in district 3. The families had major sewer, air conditioning and heating problems at that time. And the residence reported that -- these problems to the city health department and the owner temporarily fixed the problem. 14 years later, fairway village again has very serious plumbing and code issues. Buildings are cracking. Windows are broken. Resident cars have flooded in this recent heavy rain because the necessary repairs were not made so rain couldn't properly drain out of the parking lots. In October 10, 2014, fairway village requested a site development exemption request to change out the boilers and heating and air conditioning equipment and replace manager underground plumbing. The management and contractor that is performing the work has not had property in a safe and decent living conditions, nor have they communicated to residents their intent of the work that was going to be done.

[12:11:25 PM]

Sage properties, the owner of fairway village, offered the residents from \$2,000 to \$3,500 in cash to move out for 30 to 45 days while the plumbing inside their building would be replaced. Many families did not accept the offer and have worked with south Wes housing, legal aid and housing advocates to get sage properties to relocate the families to a motel with a kitchen that is located close to their schools, medical clinics and the grocery stores. After several meetings with the new management and residents, southwest housing and Texas legal aid, now appears that we're going to get some results. But why has fairway village been on the repeat offender list and nothing done? I can provide you other examples from my own personal experience of properties that should have been on the repeat offenders list from the day the ordinance went into effect. Shoreline apartments, Woodridge apartments, canyon oaks, which now they changed the name to solaris, lake view apartments, south port apartments and south port drive.

[ Buzzer sounding ]



>> On September the -- 2015, south lake shore apartments, which is also in district 3, over 100 families were displaced because of redevelopment and the owner of the lake view apartments, timothy Clark, stopped all repairs a year ago on the maintenance of those apartments. Many families had to suffer through hot summer months and no air conditioning and leaking pipes -- with no air conditioning, leaking pipes and row dents. Management threatened to evict the residents if they reported it to code. We have met with code enforcement several times in the past not only to promote and provide support, but also to make suggestions on how we can work together in enforcing the policies the city -- to provide safe and decent housing.

[12:13:26 PM]

>> Mayor Adler: Thank you.

>> Thank you.

>> Mayor Adler: Thank you very much.

>> Mayor.

>> Mayor Adler: Ms. Garza?

>> Garza: I just want to thank Ms. Roa. My office set up a temporary office to help connect folks with resources. Ms. Roa was there every day, all day helping our austinites get connected with resources so thank you for that, Ms. Roa.

>> Mayor Adler: Ms. Tovo.

>> Tovo: Yeah. And I also just want to thank former statesman, community volunteer of the year for all her work with various individuals and families throughout our city on issues related to health and safety concerns at some of our aging multi-family properties, and I would love to talk with you about that list. Some of them I'm aware of. Some of them I'm not. And I hope that one of our committees, I guess it would appropriately be the housing committee, can schedule some time to really get some answers from our code department on why those are not on the repeat offenders and what we can do to strengthen our codes, if it's time to relook at a rental registration program, which I certainly would support, or how we can at least really put some teeth into the repeat offenders program because I agree with you, with the points you've raised. I think it's frankly disgraceful we have residents living in unsafe housing and we need to do everything as a city that we can to make sure that doesn't -- that we're being tough on enforcement.

>> Mayor Adler: Ms. Roa, it looks like those comments were comments that you had written out, that extended beyond the time limit. If that's something that you could email to the councilmembers, I'd appreciate that. Thank you.

>> Casar: Some of you may wonder why I pulled number 27, which is something that I cosponsored and part of it is to see if that -- the consideration of that ordinance might take into account some of the situations such as what Ms. Roa brought up so you we'll discuss that upon item 27.

[12:15:33 PM]

>> Mayor Adler: Sounds good. Next speaker we have is Kathy Tyler. Take your time. Nu.

>> Thank you. Good afternoon, mayor, councilmembers. My name is Kathy Tyler and I'm here today as it a member of an informal network of women and housing. We're very concerned about the safety of Austin's low-income renters, many who live in rental units with serious code violations. Austin has been looking at this for many years. It's been six years since the council adopted a resolution to develop a rental registration program, and there were many stakeholder meetings and conversations after that. It's been since may 2012, when the walkways Atwood ridge apartments -- at Woodridge apartments fell. That was a huge lesson on how important it is to take preventive action. Since the repeat offenders



ordinance went into effect October 2013 and was fully implemented in January 2014, members of Austin women in housing have spoken as stakeholders. We volunteered with renters facing difficulties and we've offered assistance in whatever way we can, and we're here today to say we stand ready to do more. The city needs to do better. The repeat offenders program should be approved, and -- improved and we need additional tools. We followed the reports that Dr. Heather Wei and UT law students have put out over the years and their most recent report in June evaluated the city's response to dangerous property violations. We reviewed the code department's response to that report, and we've concluded that not enough is being done and not quickly enough. We're working on it was the code department's response to two important questions. First, the status of bringing chapter 54 actions against egregious code violators and second assessing the issues with the municipal -- Austin municipal court.

[12:17:41 PM]

It's great they're working on it, but what is the progress and when will we see accomplishments? Being complaint-driven is a real drawback. There's likely dangerous properties out there that we haven't yet identified. Tenants may feel -- fear a very real retribution and they may face obstacles like language barriers and other barriers to complaining. The tragic electrocution of a 4-year-old playing outside his apartment complex demonstrates that problem of relying strictly on complaints. He was playing outside when he touched an exposed wire on an outdoor air conditioning unit. This wasn't a known code enforcement violation before the accident. The resident advocacy project will be a helpful tool so let's get that started and get moving forward on that. And also as councilmember Casar mentioned, establishing relocation assistance, particularly since it --

[ buzzer sounding ]

>> Mayor Adler: You can finish your thought.

>> Since it will include emergency and temporary assistance it's something that would be great to have on the record too. Thank you very much.

>> Mayor Adler: Thank you very much. Our next speaker is Carol Biedrzycki.

>> Good afternoon, mayor, councilmembers, my name is Carol, and I too am a member of Austin women in housing. My fellow Austin women in housing members, Ms. Roa and Ms. Tyler just spoke stow -- to you and my message is pretty much the same as theirs.

[12:19:42 PM]

We want our city to hold landlords accountable to renters through our code enforcement ordinances. We women in housing have been asking the city for better enforcement way before the walkways collapsed at the Woodridge apartments in 2012 and we continue to see repetitive problems in properties that everybody knows we should be doing something about but for some reason are not. We had Dr. Wei talk with our group after she completed her latest research report, and we were all very much in favor of the recommendations that she was providing to the city to improve the effectiveness of the repeat offender program. We tried to decide what we could do to support these recommendations, and our first thought was, well, we'll meet with code enforcement. Then we said we've already met with code enforcement, been doing that for the last couple years and we're not really getting anywhere. Then we decided we would like to meet with the city manager and see what the city manager has to say about these recommendations. Well, on August 28, I took responsibility for making that contact to set up the meeting, and I got a response somewhere around September 3 that said, yeah, sure, we'll set up a meeting with you and to this date nothing has happened and I tried to do some things to, you know, send a couple of pokes up there to that office. So I'm concerned about the fact that I'm not sure that we have leaders that are, like, listening to these very important suggestions and



recommendations that are out there that need to be acted upon. My other part of -- the other part of my remark is that every Austin energy residential customer at this time pays \$3.35 a month up from \$3.10 a month last year to support code enforcement.

[12:21:45 PM]

By my calculations, this provides at least \$15 million a year. And what are our renters getting for this money that they give to the city every month to support the code enforcement department? And we have for years -- we've been meeting with code enforcement, asking them to update the special -- to get -- to get specialized attorneys to handle the prosecutions and enforcement on code enforcement and nothing has happened. We've asked them to contract with nonprofit legal agencies.

[ Buzzer sounding ]

-- And nothing has gone on. Now I hear that the residential advocacy project is a new idea that's come up and is stalled, that the issuance of the rfp for that project is stalled here somewhere, you know, in the city and so I'm here today to ask you to please find out what's going on and see if we can move it forward.

>> Mayor Adler: Thank you.

>> Casar: Mr. Mayor.

>> Mayor Adler: Yes, Mr. Casar.

>> Casar: It's hopefully good news for you unless something happened in the last week. My understanding is that contracts will be coming back to the council before we break for the winter holidays and so that is good news. And I know several folks have brought up proactive enforcement, some of the code department has tried some proactive enforcement in some parts of my district where lots of dangerous properties and its -- we have received a lot of phone calls from folks who have been really concerned, be they low-income homeowners or renters with that change in proposal so I'm very -- protocol so I'm happy and to work with you but as we experiment with new tools we should just -- I urge my colleagues that we work very carefully when we're working with lower-income folks to make sure we're working in their benefit --

[12:23:45 PM]

>> Not making things worse instead of better, yes, thank you.

>> Mayor Adler: Thank you. Mr. Zimmerman.

>> Zimmerman: Thank you. Quick comment. Thank you, Mr. Mayor. So I understand that you have some very, very if intentions and I'm going to speculate here as to what's going to happen. If you continue to push down this road, I'm afraid the unintended consequence will be a negligible non-measurable improvement in safety and a very measurable economic segregation with more low-income people being pushed out of the city. That's going to be the consequence. That's not what you're trying to do but that's what's going to happen.

>> Mayor Adler: Okay. Thank you. Mr. Robins, Paul robins.

>> Council, I've spoken several times about how the customer assistance program for utility bills is broken. First I detailed how over 1100 customers with real estate assets, over \$300,000 were receiving money meant for poor people, including some that lived in mansions. Second I've proved that since discount is not capped, energy wasters still get the same discount that careful user do's. Third, I've brought news to you that the program will run short of money by the next fiscal year. Either forcing you to increase costs or reduce the number of participants. These increased costs may occur at the same time of a rate increase. So far Austin energy has made changes that probably resulted in about \$1.5 million of misspent -- resulted in rerouting \$1.5 million in misspent money. And it is my intuitive



estimate that there's another \$1 million to \$2 million of misspending that can be found. Today I'm going to suggest a plan of action. The Texas public utility commission operates a bill discount program called light up Texas.

[12:25:48 PM]

In the deregulated areas of the state. It has an automatic enrollment system by the screen is tighter than the one that Austin has. It will automatically enroll a customer if they are simultaneously enrolled in certain social service programs and their name is on the electric bill. Austin's system will enroll a customer if anyone living in the household is on a social service program, and this has led to the problems with enrolling mansions. If a customer is not automatically enrolled, light up Texas provides an option to income qualify. If you're to combine the approaches conducted by local social service agencies, which is what Austin did before 2012, you would have a combined strategy that is much better at ensuring legibility. If you combine this cap on the immunity for customers you would extend the current funds in an equitable manner. The light up Texas program has about the same percentage of participants as Austin, at least on its face the administrative costs are about half of what Austin's is on a participant basis. And this may differ in an official bid, but at this point the admin -- what I'm trying to convey is the admin costs are not onerous. I am sending -- I'm going to send all of you a draft ordinance electrically -- electronically. I hope you will put it on the agenda soon and get the necessary repairs started. Thank you.

>> Zimmerman: Thank you, Mr. Mayor. Mr. Robbins, I want to commend you for your tenacity on the the issue. Are you serving on any boards and commissions right now?

>> No.

>> Zimmerman: What would be the best board and commission to do what you're asking to be done.

[12:27:56 PM]

>> Uh, I'd have to think about that a bit.

>> Zimmerman: You can bet get to me because I'm interested in helping you move forward on this, okay?

>> Fine. I will email you all a draft ordinance and of course you'd have to get it vetted with the city attorney and you'd have to figure out if all the things in it are what you want.

>> Zimmerman: We're interested in helping on that. Thanks.

>> Thank you.

>> Mayor Adler: Thank you. Brendan Keane. Brenda Richter is on deck.

>> Good afternoon, counsel. My name is Brendan, I'm a renters' advocate. I'm here to speak about the homestead tax exception and the possible effect it has on renters. I'm hoping that you'll consider that the homestead tax exemption in its exclusion of landlords disincentives land landlords from keeping rents low. In that you offset the cost of the homestead tax exemption by raising taxes on commercial property owners, that raising of taxes on them to offset that cost could also land on the plate of landlords. Landlords then send that cost to renters. The slogan of Austin is to keep it weird. It's to keep it creative. It's to keep the artists here. The artists, painters, novelists who make this city attractive are the ones that bring the economic development to the city. We're driving them out as we don't consider the corelary effects of something like the homestead exemption taxes on renters, in that we don't consider that landlords that meet the affordability threshold have no incentive to do so and if we pass the cost of the boom we give to voter donors, the homesteaders because landlords don't fall into that category, that will fall upon the artists that struggle to keep this city creative, interesting, and attractive to all that develop the city.



[12:30:12 PM]

So I would ask the council to please consider that maybe as a sort of compromise we might think of extending the exemption to landlords that keep the tax -- that level. So those landlords that keep rents at an affordability level, that they be included in something like the tax exemption that is extended to homesteaders, and that would incentivize them not to price artists, novelists, the creative people that keep this city interesting.

>> Mayor Adler: Brenda Richter. Michael Foston is on deck.

>> Hello, again. I am Brenda Richter vice president of Northtown Med. Here today representing the over 46,000 residents from citizens for fair rates. We are all customers of the city of Austin. You may recall we appeared before you in early August when the state office of administrative hearing judges ruled that the Austin water utility, water and wastewater rates were illegal because AWU does not base rates on the actual cost of providing utility service. It was then from one elected official to another that we urged you to resolve this case before the PUC made its final decision. On October 8th, the PUC, the Texas public utility commission, not only agreed that the judges that Austin is over -- the judges that -- sorry.

>> Mayor Adler: That's okay.

>> The Texas public utility commission not only agreed with the judges that Austin is overcharges utility customers, but they also ordered even further reductions in our water and wastewater rates.

[12:32:13 PM]

The commissioners were very clear, the law is the law, and even Austin must follow it. I am before you, again today, because we do not understand why your staff filed a request for rehearing. Unnecessarily wasting even more taxpayer money to continue to fight well settled -- [lapse in audio] -- To file the motion has been made by city management legal staff and does not require approval from council. Is your staff now making large spending decisions without your permission? And what are they spending millions in attorney fees to fight over? According to AWU, not much. Assistant director for AWU said on KXN, utility has a whole has over 500 million in revenue, so a 3 million unbudgeted expense is very small. As your long-time customers, we ask this council to practice fiscal responsibility and no longer support a rogue city department that continues to unnecessarily waste money challenging long established law. Let me also remind you, as your pursuit of this case continues, interest is accruing on the money owed to our districts. This unsupervised legal maneuvering by AWU is not prudent spending of Austin taxpayer dollars. Please do not mistake my statements here. As mandated by the legislature. This dates back to 1989, we are now 26 years down the road, and AWU is still continuing to submit to the PUC and the courts that whatever they put in budgets is justification for rates they set. The PUC has ruled that no such justification exists. We urge you to get involved and gain control over your staff's action.

[12:34:19 PM]

Stop throwing money at a case the city has now lost twice. In 2015 before the PUC and in 1989 before the Texas water commission. The PUC is the government agency that reviews and sets our fair water and sewer rates. It is one of the highest and most respected ruling bodies. Thank you. The courts have been consistent in the opinion that costs unrelated to service such as city budget support, general revenue transfers do not belong in water, wastewater or electricity. We urge you to take control of your utility staff. This is not just an issue for our residents but also the city of Austin's residents.

>> Mayor Adler: Thank you.



>> Thank you for your time today.

>> Mayor Adler: Mr. Zimmerman.

>> Zimmerman: Thank you. I just want to say quickly before you go feel free to put in an information request. I've had some communications with our city attorney. I disagreed with their decision to move ahead without a council vote, so I have done that and I've asked for us to vote on this issue of whether we should appeal.

>> Great.

>> Zimmerman: I don't have any movement on that.

>> Great. Thank you very much. And we are here if you do have questions, anybody from any of the districts is more than willing to meet with you guys. Thank you very much.

>> Mayor Adler: Thank you. Michael fosen?

>> Good morning, councilmembers. My name is Michael fosen. I'm from south Austin. Coyotes are predators that kill and maim our pets, they attack children and adults, they carry rabies, city council has the duty to protect the health and public safety of the citizens and their pets. Yesterday at the Travis county commissioners court, they approved ratification of the inner local animal services agreement which includes our wildlife management. They rejected the aac request to not ratify that contract and instead adopt their recommendations that may be coming to council soon.

[12:36:25 PM]

Our current program has been in place for 10 years includes hazing coyote attract tants and deter rans education, community outreach and removal of only a few confirmed aggressive coy 83 tees. Our current program is 100 percent successful. Areas where aggressive coyotes are removed don't see that kind of it again for years. At the Travis county commissioner's meeting there were some accusations made by three city officers, lundsted, Hammond and more alleging that they're trapping on lands. Looking at the charter amendment that's mentioned in the 2014 resolution of council affirm to the offense if you're acting within your scope. Illegally trapping because the resolution outlawed traps and the required use of live cages is true that that language is in the resolution, but following that language, that was changed to allow use of any types of traps due to public safety concerns. Tws is trapping without --

[lapse in audio] -- Vetted these allegations. None of the three officials making these accusations are attorneys. The city manager's report said there are no problems with compliance or the program. Travis county managed the contract, I feel, are being treated with disrespect. And I am not comfortable with three city officials accusing a contractor of illegal behavior and not complying with code and resolutions in a public meeting. I don't think you should be comfortable with this either. So I have some requests of council.

[12:38:25 PM]

As city legal to confirm that the contractor's acting legally as per contract and applicable city ordinances. Contractor also is a state and federal agency so state and federal laws may apply. Request that these officials make no public allegations that have no basis in law or fact. Ask the city manager or Mr. Bambreras if Mrs. Hammond has designated city staff to give permission for tws to operate on any land. We have a process laid out in 2014 resolution for permission to trap on city property. Thank you very much.

>> Mayor Adler: Thank you, sir. Those were all the speakers that we had signed up for citizens communication. The city council is now going to go into closed session to take up two items. Yes, Mrs. Kitchen



>> Kitchen: Overr -- oh, after you finish.

>> Mayor Adler: Section 551.071 of the city code, city council will discuss item 77 legal issues related to the city of Austin. Pursuant to section 551.086 of the government code and the city council will discuss the following item, the public power utility competitive matters related to an ordinance amending ordinance 20150908-003. Item 75 and 76 have been withdrawn. Before if I ask if there's any objection to go into executive session, Mrs. Kitchen did you want to address something?

>> Kitchen: My question was just as to our schedule today, and I apologize that I wasn't here when you first started.

>> Mayor Adler: No problem. We have three items that are on the consent, items 27, 29 and 33. Some of those have speakers for them. Three and six people speaking on 29 and 33 respectively. And then as we announced earlier, we would then go to those planning zoning items that we had said we were going to bring up first, which would be the Korean church matter and then the mmkk, so it will be 38, 39 and 40 would come up right after that.

[12:40:44 PM]

>> Kitchen: Are we planning to take a lunch break? That's really my question here?

>> Mayor Adler: We're going to have it -- we're going to now go into executive session and there will be lunch. We can talk about what time we can come back following that.

>> Kitchen: I think it's helpful. We can certainly eat during executive session but I do think it's helpful to have just a short break right now.

>> Mayor Adler: It's 12:40 right now. We can go back, and do we want to reconvene at an hour, at 1:45 or 2:00?

>> Kitchen: I don't know how long executive session will take, so...

>> Mayor Adler: Probably -- I mean, kind of hate to make a guess, probably while we eat. 2:00, that would give a half an hour in between.

>> Kitchen: Okay

>> Mayor Adler: So we'll try to come back at 2:00.

>> Kitchen: Okay. Then my other question was, there was a request for a time certain that I don't know that if it -- if it came through on the str matter? So that has been -- that was discussed, 4:00 for the str matter then?

>> Mayor Adler: It can't come up any earlier than 4:00 as it's been posted on the agenda. So it's 4:00, no sooner than item.

>> Kitchen: Okay.

>> Mayor Adler: Okay. Hearing no objection then, we will move into executive session. Thank you.

[2:08:44 PM]

>> My guess would be 20 to 30 minutes. I just wanted to let people know. There's been a request for a 6:00 time certain on the str resolution, we will probably raise that question when we come back out. Sorry.

>> [Indiscernible].

>> Mayor Adler: No. Doesn't impact anybody in front. We're going to we're going to come back in, just like I said, dispense with those last few consent items and then get to the things that have been delayed first off.

[3:18:03 PM]



>> Mayor Adler: Is everybody ready to bring this back up? We are out of closed session. In closed session, we took up and discussed legal matters related to item 77 and competitive -- public power utility competitive matters related to item no. 2. We are now back in our council meeting.

>> Council, what's your pleasure.

>> Mayor Adler: Do you want to vote on the power issue with the people off the dais, and we'll just move in and pick that up. Do the power issue first? Do we have everybody back here? Let's go ahead and do item no. 2. On the pulled item on the consent. Mr. Wuest, do you want to come up? Would you tell us where we are and make a recommendation to the council with respect to item no. 2. Give us your recommendation.

>> Yes, sir. Thank you, mayor. Larry Wuest, general manager of Austin energy. Our recommendation is to go with the original posted language, and there was some revisions submitted, but the ultimately we feel like that's the best recommendation.

>> Mayor Adler: Mrs. Tovo, you want to make a motion?

>> Tovo: Mayor, I'd like to move approval as the staff recommendation as it was posted in our backup for the meeting. Not the version that we reviewed on the dais.

>> Mayor Adler: Okay. Is there a second to this motion? Mrs. Houston seconds it. Is there a discussion on this item?

[3:20:04 PM]

As I recall where we are on this, is we went through a budget process, we talked about lots of different users, a lot of different rate elements, we held everyone as they were rolling off the contracts to the rates that were proposed. There were a couple folks that we gave an extension to in different ways, including the two large users. Is that correct?

>> Yes. And there's actually a third large user that you did approve a contract for that.

>> Mayor Adler: Came back with one that was approved.

>> That's right.

>> Mayor Adler: And then just before we approved what is in the backup now, it was pulled for further analysis, but we are now returning back to where we were in line with all the recommendations that were made. Is that what your recommendation is now before us?

>> Yes.

>> Mayor Adler: Okay. Is there any discussion on this? Yes, Mrs. Tovo?

>> Tovo: Mayor, I'll just add that I appreciate the extra time that we've had to discuss this. It is a rate that's different from the other large customers, but after more time, both at our Austin energy committee meeting and in our public hearings, I understand now the staff's rationale for adjusting -- for creating this particular tariff for these customers, and I believe there are good policy reasons for doing so, and that's the reason that I'm prepared to support this tariff for these customers and vote for the motion I made.

>> Mayor Adler: Okay. Any further discussion? Those in favor of approving the motion on item two from councilmember tovo, please raise your hand. Those opposed? That's everyone on the dais. We'll now move to the next item that we have. This would be item no. 21 pulled by Mr. Zimmerman.

[3:22:11 PM]

>> Zimmerman: Thank you, Mr. Mayor. I just had a couple of quick questions on this. I don't know if there's anybody to speak to what we've been doing in years past.

>> Mayor Adler: Yes.

>> Zimmerman: Oh, here we go. Okay.



>> Good afternoon. Joe -- joy hays from human resources.

>> Mayor Adler: This is the bus pass issue.

>> Zimmerman: Would you give us a brief history of when we started doing the passes and what's happens over the years?

>> Yes. In 1994 [lapse in audio] In 2004, the city entered into an agreement with capitol metro to purchase transit passes in bulk, and we provide those to all city employees as a benefit, a part of our benefit package. So any employee who chooses to obtain one can come and get that, and use that pass throughout the year.

>> Zimmerman: Okay. Let me -- let me ask something. I think this item came from staff, did it not?

>> It did. It came from human resources.

>> Zimmerman: It came from human resources. Terrific. And so whenever I kind of pull something and ask, I'd like for staff to come and say why did you put it on the agenda.

>> Okay. We put it on the agenda, we had a five-year contract that ends at the end of this year, we actually had a contract that ended in September, but we extended it through the end of this year so that we could begin a -- an annual year contract with capitol metro, so we had a contract that was five years, it ends at the end of this year, we'd like to go into a one-year agreement with four one-year extension options to continue this benefit for our city employees.

>> Zimmerman: Okay. So I have a staffer, works in my office, Greg Watson, he still does not own a car. He rides the bus everywhere he goes. So I've gotten educated a little bit through working with Greg, and, of course, not owning a car, he appreciates the discount and uses his pass.

[3:24:20 PM]

But as we talk about this, this seems to be one of the many issues that could lead us into being a segregated -- economically segregated city. Because every time we do one of these discounts for city employees, somebody else has to pay more, either the taxpayers at large, or else the bus users who are still using full fare. Does that make sense? Somebody's got to pay.

>> So we have an agreement with capitol metro that provides us a 35 to 45% discount when we buy in bulk. So if these citizens were to -- if these employees were to go out and purchase these same bus passes, they would pay 35 to 45% more. This arrangement is one that capitol metro has with multiple sources in town. Travis county also provides this to their employees. It's just an incentive, and it's very much in support of our initiative to reducing single okay occupancy of vehicles, so from a sustainability perspective, it's very much in alignment with those initiatives.

>> Zimmerman: Final question, how does this compare with what we do with university of Texas? Because we took over their bus service, right?

>> I am not familiar with the university of Texas. I know they have an agreement with capitol metro to provide discounts, but I can't speak to how that agreement works relative to employees versus their actual students.

>> Zimmerman: Okay. Thank you. Appreciate that.

>> Mayor Adler: Mrs. Pool move tion approval of item no. 21. Is there a second? Mrs. Houston seconds. Oh, Mrs. Garza seconds. Thank you. Any further discussion on item 21? Mrs. Troxclair?

>> Troxclair: Did you say how many employees actually utilize the passes?

>> Right now in this year, we've had about 1,967 employees that have utilized the services, and that number is just through July.

[3:26:21 PM]

>> Troxclair: Okay. And so 1,900 -- okay. Out of like 11,000 employees?



>> Yes, but that represents to date about 267,000 rides, so that equates to the level of services we've been able to provide to those employees.

>> Troxclair: So has -- have we asked cap metro if they would just be willing to provide that 35% discount to any city employee who wants to get a pass?

>> So this is an arrangement that we've had, that goes to the capitol metro board. They provide this discount service to a multiple group of organizations and companies. This is just in partnership to that. Previous to two thousands 11, 2012, we had a system where employees could use their ids to get a discount, but this methodology allows us a greater discount. It also allows us to track the usage, which is important to our sustainability and other initiatives, so by buying in bulk and allowing us to only pay for the ones we use, we're able to report back and track the benefits of the program.

>> Thank you, Mrs. Hays. I have used it in the past and I missed the signup date this time and so I haven't gotten mine yet.

>> We can certainly get you one, councilmember Houston.

[Laughter]

>> Houston: Thank you.

[Lapse in audio]

>> 2013, 2014 and 2015 and we showed riders respectively 1598, 1893 and 1967 as you mentioned. And that worked out to a subsidy per rider, \$117 in 2013, \$95 in 2014 and about \$123 in 2015. So we're wondering kind of why those Numbers seem to be moving around.

[3:28:23 PM]

>> The rates have increased from capitol metro and their fee structure has changed. When you look back at our plan I believe in 2013, it was a flat rate no matter if you rode the local premium, now their fee structures have changed depending on how you ride, we have to pay for that particular type of ride. So the increase in cost is dependent upon two variables. One is the fee structure and the increase in cost and the increase in the number of people who are part participating.

>> Zimmerman: Okay. Thank you. That makes sense.

>> Mayor Adler: Move and second to adopt item 21. Any further discussion? Those in favor, at least -- please raise your hand. Those opposed? Troxclair and Zimmerman voting no, the maipr off the dais -- mayor pro tem off the dais. Everyone else on the dais voting yes. That gets us to item no. 27. Mr. Casar?

>> Casar: Mr. Mayor, this is councilmember Renteria's resolution, so I would let him move approval, if he wants to. Otherwise, I can do it for him.

>> Mayor Adler: Mr. Renteria moves approval of item no. 27. Is there a second? Mr. Casar?

>> Renteria: Mayor, we also have a new resolution, it's been updated. Basically, it's the same resolution, but what has been added onto it is the -- is the directing the city manager to explore the viability of including the following requirement for temporary relocation including tenants relocation assistance requirement specifically for tenants who are displaced because of repair or rehabilitation of their rental unit by the landlord to bring the unit into compliance with code.

[3:30:23 PM]

And the tenants are expected to be able to reoccupy the unit. Also it goes on to requirement for emergency relocation including tenants relocation assistance requirement specifically for tenants who are displaced in their rental unit as a result of a city or court order to vacate the unit while vacation is required to enable compliance with a notice of code violation from the city because of eminent potential harm to the health and safety of the tenants. So that's the added on. The rest of it is pretty much the same as has been discussed at previous council. And it's gone through different various boards



and commission, including the community development commission and the planning commission, but on this resolution, it's -- you know, it's to address the issue of a tenant being displaced and relocation, and, you know, this has become a city wide issue that's growing particularly in south and -- east and south Austin districts. You know, this has gone on for a decade now, and, you know, right now because of the increase of the cost of renting apartments and a lot of these apartments that are coming into the market are being -- the low-income homes are becoming available to the market, and people are buying them and dislocating the low-income people that these apartments were built because of the 30- to 40-year designation that we put on these apartments for low income, and they have met their tax credit, so we're basically trying to address this issue right now. And all I'm asking for is th my colleagues approve this resolution so it can go back to the planning commission and then have them come back to our -- and have two public hearings, input from the public, and then on -- and then coming back to us -- to our housing committee, and then from our housing committee, have another hearing and then make our recommendations to the city council as a whole.

[3:32:55 PM]

>> Mayor Adler: Okay.

>> Mayor?

>> Mayor Adler: Three public hearings before it gets back to us. Mr. King, do you want to talk about this issue now?

[Inaudible speaker]

>> Mayor Adler: Okay.

>> Mayor pro tem, councilmembers, I think this should be considered an emergency item and I will hope that you will -- when you pass this, that you will ask that it be brought back as quickly as possible. People are being displaced as we speak. And corollary to this, we should have a strategy to minimize the number of homes that are being demolished that are contributing to this issue that we're trying to solve right now. So we need to be looking at strategies to preserve affordable existing homes and inhibit their demolition and preserve those as much as we can, so I suggest that we look at some strategy to preserve, preservation zone in areas of our neighborhoods where we do have these homes and let's try to preserve them and keep them from being demolished in the first place. Thank you nor listening to my comments.

>> Mayor Adler: Thank you. Mrs. Pool?

>> Pool: Yeah, I'd just like to speak in support of councilmember Renteria's proposal here. I'm looking at the number of years that have passed since this was first taken up, and the items were first presented for stakeholders, and I can't overlook the fact that it's possible that maybe the shoreline, the changes to the shoreline might not have happened if we had been a little bit more timely in our adoption of this proposal. So I agree with what Mr. King has said about this being -- constituting an emergency, I don't know that -- if it is possible, because I don't know without asking the city manager and staff if we could expedite the writing of the ordinance to move this more quickly than the time that is currently in the substitute proposal, which is 120 days and 180 days after another stakeholder input gathering process.

[3:35:05 PM]

I would just say that to the extent that we can be expeditious and move this quickly, I would like to see that happen.

>> Mayor Adler: Okay. I'm appreciative of the Austin board of realtors has also said that they support this resolution and looking forward to a robust conversation on this issue, which I'm sure the resolution will lead us to. Any further discussion on this item of no. 27. It's been moved and seconded. Mrs. Gallo?



>> Gallo: I just wanted to also mention that we got some input back from the Austin apartment association which is actually more of the multifamily industry representative, and they were -- from the process standpoint, I think we do need to make sure that there's enough time for stakeholder conversation in this. From the process standpoint, my fellow councilmember and I were at the neighborhood housing committee meeting that this was scheduled to be brought forward, and I know some of the stakeholders were there to have a discussion, but we did not have a quorum, so we weren't able to have that meeting. So actually we've missed an opportunity for the stakeholders to come forward and talk to us about this. I think they are supportive. They're supportive of also being able to have the time to be involved with this process to make sure it's a process and a system that works. I notice that some of the language in here, there's talk about a certain number of months notice. We want to make sure that that isn't contrary to what's in existing leases so there's just -- there's a lot of details I think that need to be worked -- that I'm looking forward to moving this process forward and having this discussion. Mr. Zimmerma N?

>> Zimmerman: Thank you, Mr. Mayor. I'd like to speak against this. I want to turn your attention to page 2 of the resolution and the be it resolved. The provision here requiring applicants to provide notice to 10 apartments of the final move-out date at least six months in advance.

[3:37:11 PM]

So if I turn this back around the other way, I think everybody could see my objection. I don't think tenants should be obligated to provide a six-month moveout date. I think right now it's typically 30 days in the industry, so as a tenant, when you're ready to move, you have the flexibility to give 30 days' notice, you don't have to give six months' notice. I don't see how it's fair to turn it around and say well if you're the landlord you have to do six months but if you're a tenant, you only have to give one month. I'm not following that. And then on page three, it talks about requiring a reasonable waiting period between the issuance of demolition permit and the execution of demolition. So a reasonable waiting period depends on the eye of the beholder. It might be reasonable to one [lapse in audio] Objective, so we're kind of going down this road again of stuff that I just don't know how we're going to work these out. I know the motion passed, but I'll be voting against it.

>> Mayor Adler: Any further discussion on this item no. 27? Mr. Casar?

>> Casar: Mr. Mayor, just briefly, I think it's important to note that we do have standards for when and how we issue demolition permits. We check for erosion, we check on trees but we don't check on whether there's people whose homes this is, and I think that's the gist of this resolution. And I'm very supportive of it coming back as quickly as possible for those reasons.

>> Mr. Mayor, I greatly appreciate the fact that people are now given the same respect as trees. I think that's a step in the right direction.

[Laughter]

>> Mayor Adler: All right. Any further debate on this item? Hearing none, those in favor of item no. 27, please raise your hands. Those opposed? Mr. Zimmerman voting no, the rest voting aye. That takes us through the initial consent items. That gets us to now the zoning ordinances and the like.

[3:39:19 PM]

The first one of these we said we would bring up was the items number 38 and 39 in items 38 and 39 are related. Item no. 38 is npa2015- 001701. This is for property at 2,000 Justin lane and an amendment to the neighborhood plan to change the future land use map to a multifamily land use. The remaining zoning items, item no. 39, c14-201--0025 again for that same property at 2000 Justin lane to zone the property multifamily residence, conditional over lay. I'll start -- there is a valid petition that's filed



against the rezoning case that would require nine affirmative votes to be considered on three readings -- or second and third reading today. The petition does stand at this time at about 30.76%. The property itself, it's up for the rezoning and the plan amendment, it's just under an acre, it's .948 acres in size. It is in an area that's at the southeast -- southwest corner of Cullen and Hardy. The planning commission, when they came forward and made a recommendation, they did recommend the rezoning to the mf3comp district zoning. Had a limit on the number of units to a maximum of 24 units, that half of the units would be at least two bedrooms, that their vehicular access to the property of Hardy Drive is required.

[3:41:29 PM]

That it's a two-story building at a maximum of 35 feet would not be able to be constructed within 50 feet of the eastern property line on the site. All required parking must be on site. Sidewalk construction along the frontage is required rather than paying a fee in lieu of. There would be \$15,000 donated to the neighborhood partnership program that's administered by our public works department. There have been meetings between the applicant and the neighborhood, although it's not recommended by the Crestview and Planning Contact Team, Crestview Neighborhood Planning Contact Team would support a lesser zoning change to multifamily 1, I'm sure the neighbors will speak to that. And also the Brentwood Neighborhood Association is opposed to the rezoning. Right now the property is designated in the future land use map at Civic, existing zoning is sf3, and it's currently used by religious assembly use.

[Sneeze]

>> Bless you. The property to the east is used for duplexes, single family residences, some medical offices. To the west are duplexes, multifamily, single family residential zoned mf3 [lapse in audio] In existing religious assembly use. I think I'll pause. I think you have a great deal of speakers and have them come forward and present their case. Ask a question for staff, I can answer at this time or a little later.

[3:43:32 PM]

>> I do have one question at this time for you Mr. Gurnsy. You were talking about the surrounding properties have an array of zonings but they're not actually being used to the greatest extent that the zoning currently allowed. Is that correct?

>> Yes. There are properties nearby that certainly the church property to the south could go in single family districts. Religious assembly uses are permitted. So the residential zoning is probably more than what they need for that designation. The properties that are to the north, there's some condominium type uses or multifamily zoning. To the east primarily is single family 3, most of those are single family homes, not necessarily duplexes uses, so there's a small tract of mf3 that's across the street from this property that's predominantly single family use.

>> I just wanted to point out that the zoning here is higher than what the current use is to give the dais an understanding of the current density. The properties surrounding the parcel excluding the northern mf3 zone, multifamily development are low density multifamily complex. As I just sent to the west are all single family uses despite the multifamily or limited office zoning. And I think you'll hear from neighborhood -- neighbors why that's important. And one thing I'll point out, and we checked the address on this case because it talks about 2000 Justin Lane as the address on the case, but the property actually is at Mr. Gurnsyrk pointed out at the corner of Kol -- Cullen Avenue.

[3:45:35 PM]

Thank you.



>> Mayor Adler: Thank you. Council, if it's okay, we'll go ahead and call first the applicant  
>> Mr. Guernsey, what is the custom for time allowed for the initial applicant?  
>> Usually five minutes, and then back and forth, those in favor, those opposed.  
>> Again, thank you, thank you, mayor, mayor pro tem, councilmember, first of all, I want to thank y'all for postponing my case on October 1, for my hasty departure, thank you again for postponing it again three weeks ago and preventing us from being here until after midnight, us anyway, not y'all, on the dais I provided this information which I'm trusting the clerk handed out to y'all. This particular case has been around for awhile in another form, and this one is strictly just for the multi-family zoning on the property. The property is just a little bit under an acre. It's .948-acres in size. Under sf3 we can fit ten duplex units on the property, and we're requesting 24 units on the property. The property is, yes, at the corner of Cullen and hardy, yes, it does have just an address, don't need to get me started with the address situation that we've had with this one, yes, it is only on Justin and hardy, you can see it's zoned sf3 on the future land use map, but there's also the surrounding mf zoning cases properties, and I'll get into more into that a little bit later. So what we requested is a change on the future land use map to multi-family, mf3 zoning, 24 units, 10% of the parking to be on site, and there's a reason for that, and aisle get into that in a little bit.

[3:47:38 PM]

Some neighbors in the neighborhood had asked for us to enter into a partnership program for sidewalks. We agreed to that. We thought it was a good idea, they're going to be putting in the sweat equity. We're going to be putting in a little bit of cash to help sidewalks in the area. Their request though is for mf1. That limits the project to two story under their request, and of course they're now asking for 100% of that parking on site, so we're in agreement on two things, one is the change of multi-family and of course the parking. If you look at it in a little bit more detailed scenario, the mf1, the mf3, the density, the mf1 allows for 16 februarycy unit, that's the maximum number of units that can be on that property. If you're going to be doing family units, it's going to be less units on the property than that. So if it's mf1, client is probably going to develop 16 efficiency units. We're asking for mf3 zoning which does allow for 35 efficiency units, but we're capping it at 24, the development at 16 units does not promote family housing at all, the development with 24 units half of them being one bedroom, half of them being two bedroom, does promote family housing and that's what we're trying to bring into this area, the parking under the mf1 scenario is 16 parking spaces only. That would crowd the streets with parking on Cullen and hardy, that's why we would originally said we would put in 100% of the parking, under their scenario it promotes on street parking. Under our scenario, 42 parking spaces would be required for the one and two bedroom units. That lessens the impact on the on street parking that the neighbors have repeatedly told us is an issue. We're asking for 40 feet. Compatibility, is limiting this site to 40 feet, and so with that, 40 feet is what we're looking for, and so is mf3 appropriate in this location?

[3:49:40 PM]

I say, yes, it is, yes, you have mf3 zoning all around, is it developed maximally to the mf3 zoning district? The answer is no. Density is only one of the factors, the zoning to the north of the property is zoned -- or excuse me, is developed within an impervious cover that's very appropriate and needed for the mf3 zoning that is on the property. They chose to only develop it two stories, they chose to have the unit countdown, but they're at mf3 impervious coverage on the property to the north. And so it 24 units appropriate for this location? Again, yes under the scenario that we're talking about which is one and two bedroom units with a maximum of 12 of each, and then putting all of the parking on the property. 323% more parking on this property with just 8 more units. And so the planning commission



recommendation is a change to multi-family, mf3 zoning, 24 unit, 100% parking on site, \$15,000 in the neighborhood partnering program, half of the units will be two bedroom. Vehicular access to hardy is required. Two stories within 35 feet as Mr. Guernsey had mentioned. 35 feet within hardy drive. Sidewalks constructed across the property frontage, in that instance we're not going to be doing a payment in lieu of for the sidewalks on our property. We're going to be putting them in, and so the planning commission vote is with a vote of 9-2. And so with that, we're looking for your support to move a multi-family project appropriate for this site and it's multi-family site that's going to be used for families. Available if you have any questions.

>> Any questions of the applicant at this time? Ms. Tovo.

>> Tovo: I've got a question too, but I'm happy to defer to the mayor pro tem. So, all right, I've got just two quick questions at this point. When originally I had understood that the applicant was opposed to the planning commission's recommendations.

[3:51:45 PM]

It sounds like you're now in support of them, is that correct?

>> We've definitely been in support with planning commission recommendation from the moment they made it. There's not an issue there that we would have any issue with.

>> And the second question I have, does Mr. Kahn, have they actually done the transaction to purchase the land from the Korean united presbyterian church?

>> They have not at this time. If you want to know the holdup on the issue is the Korean church to finish the construction of their new facility.

>> Tovo: How are they doing on the construction of the new facility? My understanding is they haven't actually closed on that property either, so it may be that they have since the last update that I had, and the point being is I think as we consider this case and entitlements that we may or may not be granting, we need to think of it in the context of this has not been purchased by the developer who is the applicant. Thanks.

>> For point of clarification, the Korean church is the applicant for the rezoning. Just for point of clarification.

>> Mayor Adler: Okay, thank you. Ms. Tovo.

>> Tovo: I had a couple of questions about your presentation. I know you said one and two bedrooms is more family friendly or promotes family housing. I wanted to know how you are going to conquer the commitment -- most people think two bedroom and three bedroom really promotes family housing, but I appreciate that there is a commitment to having half and half of one and two bedroom, is that in a conditional overlay or what's the proposal for making that commitment?

>> The planning commission recommendation is for half the units to be two bedroom, and so that would either be done in the conditional overlay or with the restrictive covenant, and so in our opinion, just a fact those are a supply product that is available for family occupancy versus strictly just efficiency units.

[3:53:57 PM]

>> Tovo: Yeah, I would agree that you're more likely to get families if they're not efficiencies. I guess I'm really trying to figure out what the mechanism -- what mechanism you're proposing for the zoning to go through to make sure that there are 12, two bedrooms on the site, was it -- did planning commission specify that you said they talked about a conditional overlay?

>> That's correct. That is part of the recommendation.

>> Tovo: A public restrictive covenant.



>> It's part of their recommendation, so it's going to get form lysed in one I two day, that's the conditional overlay or a restricted covenant.

>> Tovo: What other amenities have you and your developer talked about to promote families if that's your intended audience? Are there other on site amenities that would appeal to families.

>> We haven't gotten into that discussion yet.

>> Tovo: Okay. I may have some more question, but those are the ones I wanted to ask at this point. Thank you.

>> Thank you.

>> Mayor, if it helps to clarify, I have some information on what could be in the public restrictive covenant, and what could not, so I'll go ahead and run down those. According to assistant city attorney, the apartment MIX of 50% of the apartments must be two bedroom, in other words not 100% efficiency could be in a public restrictive covenant. The vehicular access on hardy, not excluding covenant -- Cullen, could be in a public restrictive covenant. 100% of the parking on site, the provision is not included currently in the ordinance or restrictive covenant, because city code already requires the applicant to provide that parking on site. The sidewalk constructed on hardy, with no fee in lieu, that would have to be a private restrictive covenant, and the \$15,000s that the applicant is offering to the neighborhood partnering program would have to be in a private restrictive covenant and further that would be subject to application with our public works folks. It's a competitive process, and so the determination on whether that would -- that project would be selected for an npp would be determined later, so just wanted to offer that information that's helpful, and then just one last thing, Mr. Kahn has been representing to the neighborhood that he is the future owner, and developer of the property, which was why I brought up whether he had actually completed that transaction.

[3:56:19 PM]

>> You are correct, yes.

>> Okay. Thank you, and not the church. The church may be the applicant, but Mr. Kahn is --

>> Is the developer, yes.

>> Okay. Thanks.

>> Ms. Tovo.

>> Tovo: Sorry to get back to this point, but I just want to be clear, so does Mr. Kahn have plan, do you envision a pool on this site? Have you gotten any of that level of detail that would help us understand what this is really being crafted as family housing or not. Play scapes.

>> Again, no, we have not gotten into that level of design on the site at this time.

>> Tovo: Okay.

>> Not yet.

>> Tovo: Thank you, does Mr. Kahn have a similar development that he would point to that would be a model for this one?

>> I don't know for sure, but I will ask.

>> Tovo: Okay.

>> My understanding is that this will be a second reading only at this time, so that will give me some time to find some answers to that question.

>> Tovo: Thank you.

>> Thank you.

>> Okay. Thank you. Speaker on this item, chip Harris. Is Steve kuner here? Thank you, sir. Is bob Stevens here? Bob Stevens? Okay. Is Barbara Macarthur here? Thank you, ma'am. Is Joyce bashana here? Thank you. So you have one, two, three, four, 12 minutes, sir.



>> Thank you, mayor. Mayor pro tem, councilmembers. My name is chip Harris, appreciate the opportunity to speak to the council today. In addition to a valid petition opposing mf3, the crestview contact team on a vote of 56-7 recommended that this property be zoned mf1 or more restrictive. Be limited to two stories in height and provide 100% of required parking on site.

[3:58:25 PM]

And the resident's petition was initiated and signed by over 160 neighborhood residents. Reflects the adjacent uses consider this. One of the city zoning principles states zoning changes should promote compatibility with adjacent and nearby uses and should not result in detrimental impacts to the neighborhood character. Let's take a moment and review this case in the light of that principle. One of the key words here is uses. The principle doesn't say adjacent zoning. It says adjacent uses. That is critical in this case. With all the single family and duplex uses west of hardy, it is evident that hardy is clearly not a dividing line in fact a new single family house is being built west of this tract, closer to Burnett road at 2017 Cullen, and just a few years ago, the developer that has an option to purchase this property built a duplex at 2015 on property zoned mf3. The third page of the handout compares the applicant's mf3 zoning request with the recommendations approved by the crestview contact team in a vote of 56-7.

[4:00:29 PM]

There are two columns contrasting the contact team's recommendation for mf1 or more restrictive zoning with the applicant's request for mf3 zoning. The first issue is who's recommendation is consistent with the approved neighborhood plan? As you can see, mf3 zoning is not consistent with the council-approved neighborhood plan. The plan states that any new development or redevelopment should respect and complement the single family character of the neighborhood. Next is a set of zoning principles that the city follows. Starting with compatibility with surrounding uses, the contact team's recommendation is compatible, but mf3 is not. The two story, 29 unit condo complex across the street at 2,000 Cullen has a density of 12 units per acre and a far of .35. If zoned by this use, that condominium complex on 2.35-acres would be zoned mf1. And is basically the basis for limiting the tract here today to mf1 or more restrictive. Then there is the zoning principle of transitional use. Mf1 meets this requirement, but mf3 does not. City guidelines state, quote, an mf1 district may be used as a transition between a single family and higher intensity uses, end quote. Mf3 does not have that language. It's not - another principle states its zoning should not set an undesirable precedent. Mf1, but mf3 would set an undesirable precedent. It would be taller than any other on the block and the density would be 100% higher than the adjacent condo complex. Both elements setting a precedent.

[4:02:33 PM]

Again, mf3 fails this test. And there are other issues. Looking at height, the contact team's recommendation of two stories maintains the character of the neighborhood while the applicant's request for three stories does not. Next there is impervious cover. The residents petition with over 160 signatures calls for 45 to 55% impervious cover, but the applicant is requesting more than that at 65%. Currently used as a parking lot, the impervious cover is probably over 90%. And we should take this opportunity to reduce that as much as possible to reduce future flooding risk. On January 6 of 2016, the new FEMA flood plain maps will become official and hundreds of houses in the brentwood neighborhood downstream of this property will now be included in the floodplain. According to city estimates will cost 200 million to resolve these drainage issues. The brentwood neighborhood



association has submitted a letter in opposition to the mf3 zoning. Keep in mind the watershed protection's annual budget per capita work is not 200 million, but only \$23 million per year, so this is just one project. Cullen is a narrow residential street with impaired access to Burnett road, because three streets come together at that intersection. Mf1 zoning will help prevent congestion along Cullen avenue while mf3 will only worsen the traffic. A 2014 city of Austin transportation staff reports the traffic along Cullen avenue and Hardy drive currently exceeds the requirement established in section 256116 end quote.

[ Lapse in audio ] Would allow 12, two and three bedroom units on this tract, a density consistent with surrounding properties, the applicant's request for twice as much density as the surrounding properties is not reasonable.

[4:04:39 PM]

With respect to affordability, the developer has stated that the units will be rented at the market rate that for many Austinites is not affordable. And less than 300 feet away, on the west end of Cullen, is a nursing home that needs open access for emergency vehicles. The closest responder is the fire station at the other end, the east end of Cullen, the other side of the proposed rezoning. A higher density apartment complex would only increase the potential for the interruption of emergency services to the nursing home. Bear in mind if this council honors the valid petition and rezones this property to mf1 or more restrictive, that this developer will benefit immensely, even with mf1. Not only will he enjoy the increased development rights when the property is sub zoned from sf3, but his adjoining tract zoned I-0 will no longer be subject to compatibility setback requirements, because of the sf3 zoning on this tract. That is an incredible bonus on a lot that is barely 200 feet deep. So the question to ask is whether the proposed mf3 zoning is compatible with the surrounding uses, and the answer is no. And second, are 24 units appropriate for this location? Again, no, because it is in the interior of the neighborhood and not compatible in scale or density with the surrounding uses. Please honor the approved neighborhood plan, the valid petition, the contact team's recommendation, the Crestview neighborhood association recommendation, the Brentwood neighborhood association resolution, and the Crestview resident's petition and deny this requested zoning. Thank you for your consideration.

[4:06:41 PM]

>> Thank you. Next speaker we have listed is Nancy Harris. Is Pat Carr here? Hi. You have six minutes.  
>> Thank you, Mayor. Good afternoon, Mayor and Council members, my name is Nancy Harris. There are several petitions that relate to the zoning request that you may have seen. One is the valid petition signed by property owners within 200 feet of the project and rhett -- representing at least count -- these are the entities that will be most impacted by this development. The second one was originally an online petition that now has a second version with fewer numbers but original signatures. This petition was started by a group of individuals who are passionate about higher density and development, and were unhappy with the contact team vote in July. Their proposal was presented at the August meeting but the vote was 56 to 7 to support mf1, or more restrictive residential zoning. This petition ignores the question of whether this development is appropriate or not and attempts instead to shift the focus to possible monetary gains for potential but not guaranteed promised additional sidewalks in the neighborhood. I have here a map plotting out the 45 verifiable names on the two versions of the petition. The green dots show households with two signatures. The red dots indicate individuals. On the online version there were five names of individuals who do not live in the Crestview neighborhood and another nine who did not give a name and could not be confirmed as living in Crestview, none of these signed the second version. The second map is there, represents the distribution of the 168



signatures that were collected a few weeks ago in support of the contact team, the vote of 36-1 by the crest view neighborhood association, and the entities that have so far joined in the valid petition in opposition to mf3 zoning.

[4:08:47 PM]

The position of the crestview contact team and the neighbors in the couple of secondsest proximity to the project has been very clear since it was originally proposed to be an office building and now an apartment complex. They've wanted to have a development that was compatible with their surrounding uses and of the same scale. The buildings in the immediate area are one and two story structures comprised of single family homes or duplex, small cand millenniums or small local offices and businesses. The current recommendation of the contact team which complements the petition signed by the adjacent residents is for mf1 or more restrictive residential zoning with a two story limit on development and 100% of the required parking on site. This would keep the size of any development on this tract to a number of units that would be more in line with adjacent properties. Many of the residents of crestview would love to see higher density single family homes built here. One could put approximately ten to 12 on the lot, that would complement the existing uses and provide a much-needed product. As more and more young families are moving into the area, so many in fact that brentwood elementary and Lamar middle school are currently at capacity as compared to the citywide trend. Homes rarely stay on the market for long, so it seems it would be a profitable venture. However, a small apartment complex with approximately 12 to 16 units that would be allowed under mf1 could work if that is the type of project the developer chooses to do. It would be our hope that the developer would opt to build fewer total units so that the units would be larger and more likely to attract families, however, as a neighborhood we do not have say over the size or the price which we have been told will be market value of the unit Mrs. Kahn ultimately chooses to build. The question to ask is whether this development is appropriate or not for this area, and the answer from is vast majority of the residents living near the site and the neighborhood as a whole who have officially weighed in, either at contact team meetings, cna meetings or by signing their names to the petition, is no, it is not.

[4:10:57 PM]

And if I have a little bit of time left, there were just a few points that I wanted to make. I appreciate councilmember pool pointing out that even though the address is on Justin, this is actually facing Cullen and hardy, which are two small residential streets and I think someone else is going to talk about that a little bit more. We've been asked to compromise on this project, and we've done that several times. The current zoning of this property is sf3, and we agreed earlier to higher density, single family, but that was not acceptable. We've agreed to go up to mf1, and that means additional benefits to the developer including reduced setbacks on the remaining portion of his property, and a higher impervious cover. But apparently that's not enough either, but we have made compromises. We have never really had the question answered of what the plans are for the remaining portions of the property, this tract is actually about 2 and a third acre, give or take a little. It's not the entire portion. We have no idea what's planned for the rest of this and what the effects of that would be. None of that has been taken into consideration is what the impact is going to be and having the additional development on the rest of the property. Currently, the sanctuary and the parking lot are for lease even though the existing church is still there and our understanding is will be until at least about next June. How -- how will that affect the build-out if this is leased out to someone? We have no idea if Mr. Kahn intends to actually build this project or if this is one step in the way -- in the path of increasing the zoning of the entire property at some point.



[4:13:06 PM]

Or does he intend to sell the project, the property. We really don't have the whole story here. Thank you very much.

>> Thank you. The next speaker is Sarah Lewis. Marcia Brown is on deck.

>> Before I start, can I ask how many minutes I have.

>> 3 minutes.

>> Someone just donated 3.

>> Who donated 3.

>> David King.

>> Okay. You have six minutes.

>> Okay. Thank you. I am going to start by sharing a prepared statement from Larry Willette, facilitator of the Crestview neighborhood plan contact team who regret that as a prior commitment prevents him from being here. I'd like to read the first -- so this is Larry, not me, when I say I. I'd like to read the first goal of our neighborhood plan, goal number one: Respect the prevailing neighborhood character. The guidelines and to reinforce those positive elements and characteristics that exist within the neighborhood that help create a unique sense of place within the city. The guidelines serve as a framework for new development and provide suggestions as to how it may fit into the existing neighborhood character in terms of scale, mass, and building pattern. Following the guidelines helps ensure the existing neighborhood character is preserved, maintained, complemented or even enhanced. Those are the standards by which any proposals must be measured. Measured against these enduring goal, the current proposal falls short. I'd like to cite another document which seeks to be visionary.

[4:15:09 PM]

Quote. Any suggested rewrite of the city code while striving to achieve the broad goals of the comprehensive plan must recognize, respect, and reflect the carefully crafted compromises, balances, and assumptions upon which existing neighborhood plans were based and depend. Continued protection and preservation of existing neighborhoods and the mutual environment must be considered top priorities of comprehensive revisions to the city code. The consequences and impact of additional density and infill in existing neighborhoods must be carefully identified and analyzed to avoid endangering the existing character of neighborhoods and exacerbating community health and safety issues such as flooding. Impacts on sustainability and liveability by increased infill and density of units including associated infrastructure costs and impacts on affordability should be identified prior to add dopings of a new city code. Modifications to the city code and building codes.

[ Lapse in audio ] Character, consistency with adopted neighborhood plans, impact on affordability, and the ability of existing families to continue to reside in their homes, close quote. Those aren't my words, and they're not the contact team's words. They are your words. They are imagine Austin, and they might be the core of code next, for a city that cannot recognize the value of the present has little hope of creating a visionary future.

[4:17:12 PM]

The Crestview neighborhood plan hazmat team has its responsibilities. We are asking that you meet yours. Now, I'll go on with my own words since I have a few extra minutes now to say in response to mayor pro tem Tovo's question about whether Kahn would be planning a play ground structure or pool



because it's going to be a family-oriented development, from living near that site, and knowing that it's less than one acre and he's going to put 24 apartments and 100% parking on it, I can't visualize how there would be room for anything other than parking lot and apartments and sidewalk, so I doubt very much that those are in consideration, and also even though we're only talking about this less than one acre property, there are existing apartments that are on this parking lot, that's part of why there's a parking lot there. I think it's 10 or 12 apartments in a two-story structure, and the developer has indicated that he plans to renovate those and leave them there, so we're actually talking about 36 apartments, and there's a big question mark about whether there would be parking for those 12 existing apartments, or if those are going to get kicked out on to the street, because he's promising 100% parking for these new apartments, and like Nancy said, I want to point out that there's just a huge question mark about what the abutting property would be developed as because, like chip said, up zoning this to mf1 is going to place fewer restrictions on how the actual church and the property next to Justin can get developed, so having that as an unknown is very concerning to the neighborhood as we consider this increased density if it were to be passed.

[4:19:30 PM]

Thank you for your time, and I would take any questions or comments.

>> Thank you very much. Next speaker is Marcia brown. You have three minutes.

>> Mr. Mayor, mayor pro tem tovo, councilmembers, my name is Marcia brown, and I'm a homeowner in the 1800 block of Cullen avenue. I'm here today to strongly urge you to deny the request to rezone the Korean presbyterian church property to mf3. I conquer with all of the reasons presented by the previous speakers as to why you should deny the request. My home is located about two blocks from the property. So I want to share with you my concerns as well as many of my neighbors' about the rezoning and the proposed three story apartment building on the corner of Cullen and and hardy. As you have heard, traffic on Cullen and hardy currently exceeds the requirements established by the city and that Cullen and hardy are very narrow residential streets. The box of Cullen avenue near the site are virtually one lane streets due to on-street parking. The blocks -- I'm sorry, vehicles must now give way to others as they go up and down the street. As the proposed egress from the apartment building will be on hardy, that means that the traffic congestion on hardy and probably also on Cullen will increase. There are no sidewalks in the area, so school children and other pedestrians must walk in the streets, the current threat to pedestrians is great. Greater traffic will only enhance this threat. Now, Cullen and hardy are used by both ems and fire vehicles to respond to calls from the -- from the nursing home at the corner of Cullen and Burnett.

[4:21:40 PM]

Afds office of public service provided me with some data about the use of Cullen by the local fire station for the year 2014. Cullen was used by the engine from that station to respond to 65 calls from the nursing home at the corner of Cullen and Burnett, and in total, the station used Cullen 243 times to respond to calls, increasing traffic will likely delay emergency response by the fire station and E.M.S. I know that you've received many e-mails from my neighbors about the proposed rezoning, so please listen to them and to me and deny the request for the rezoning. Thank you for your time.

>> Thank you. The applicant like to close or come back for discussion on the dais?

>> Mr. Mayor?

>> Yes.

>> If the applicant is going to close, if it could include remarks about the existing apartments and if they're currently occupied in the other concerns that were brought up by that one speaker.



>> Sure. If I can wrap up with my rebuttal first, and then I'll get into that in a little bit. We originally filed mf4 zoning on this property and we've dropped it down to mf3 and we've dropped it down to a reasonable number of units in our opinion, and did it as an effort to make the units family friendly as possible. The notion that a 65% impervious coverage does not have room for amenities I think is unfounded, there's 35% of the site that's going to be available for that. Compatibility, the project is in excess of the compatibility standards as planning commission has recommended. 40 feet is what compatibility will allow, and the planning commission has asked for a step back along hardy, now, there are dozens of examples around town, three story apartment complexes across the street from single family.

[4:23:50 PM]

It does exist around town, and that's what the compatibility standards are helped to measure. I will, again, submit to you that mf1 zoning will lead to congestion on Cullen. It's going to put a tremendous amount of parking on the street and not on the side. That is going to be a bigger problem to the safety of the area versus the mf3 zoning and putting over 300% more parking on the property for just 8 more units. If this site's not appropriate for a little bit more density, then where? It's a thousand feet away from the 803 line on Burnett road and the transit stop is a thousand feet from the site. You know, this area is not needed for the least common denominator. You don't need single family homes in this location. Yeah, he could probably make a lot of money doing that, but Mr. Kahn likes to build projects and hang on to them. He has built single family homes in the area, but he's done a lot of work in San Antonio, and he has -- his projects have won awards, national awards for the types of projects that he brings. I think that he would be a good steward of the property. No question in my mind on that. And I do, again, think that the mf is appropriate. You know, with that, the property that's across the street that's currently zoned mf3, sure, it doesn't have mf3 density on the property, and I stated this at the beginning. It does have mf3 impervious cover. It needs mf3 zoning. They chose not to go three stories, and does it set a precedent for us? No, I don't guess it really does. But use in the area is one thing, zoning in the area is another, and we have mf3 that's across the street. And I would just like to point out that it's the mf3 property that's across the street that's petitioning against mf3 for the zoning on this property and the one that's petitioning needs their own mf3 zoning.

[4:25:56 PM]

And councilmember Casar to talk about the units that are next door, there's an existing.

[ Buzzer sounding ]

>> You can go ahead and finish your thought.

>> There's an existing small building next door that has several units in it that is going to be -- units in it that is going to be maintained as efficiency units. It's not part of this zoning request, and it's only a 50-foot deep -- 50-foot wide property.

>> And so there's no intention -- well, sorry, help me understand, because I actually know the intersection okay, but I've gotten confused by the Justin address exactly where it is.

>> I understand.

>> So is the zoning request -- excuse me, are the existing apartment buildings, apartment units on the address that we're considering today for the zoning request?

>> Are we --

>> Casar: Are we changing zoning where those apartments are?

>> The area of zoning does not include the apartments that are next door. Travis county appraisal district may very well have the lot property, this sf3, and the existing mf3 property as one parcel and one



address, so I don't have an answer for you on that, whether it has a separate address, but that existing mf project is not part of the rezoning.

>> So there's no intent to redevelop those existing units and I'm sure we could sort out some way of making sure that we're not -- that that intent is manifesting what it is that we discussed, that we're not up zoning the existing --

>> We're not up zoning the existing -- the plan is to remodel what's on the existing mf3.

>> Casar: Thanks.

>> Mayor, I can maybe answer for councilmember Casar the other 12 unit apartment complex that's being discussed. That was a fraternity house, and I don't think it's a fraternity house anymore, but that was the use, and it may be that it's -- that --

[4:28:01 PM]

>> And there's existing tenants?

>> Yes.

>> And those existing tenants --

>> I think it's -- I think it's vacant. I don't think the fraternity is in that --

>> The fraternity is not, but my understanding is that there's some people living there, but, again, just remodel four apartments.

>> Has Mr. Kahn purchased that property?

>> It's part of the Korean church property. They own the lops, the sf3p, and the mf3ps.

>> So it's still owned by the church and it sounds like the fraternity was used by a fraternity and it may not still be being used by a fraternity. I don't have any clarification or verification that there's anybody in there at this time.

>> But the intent is to build the 24 units on the empty parking lot.

>> That is correct, yes.

>> And I also wanted to ask Mr. Thrower, when you said that you dropped the number of units to 24, that was after the planning commission made that recommendation, is that correct?

>> No, that's not. We we we stated 24 units on this property awhile back. 24 units was my presentation to the planning commission. And might I add it was at that meeting that we were asserting that the 24 units would promote the family aspect for the occupancy, and through that meeting I believe it was commissioner knuckles made the recommendation for if we -- to further promote the family side is to make half of them two bedroom and we agreed to that. Thank you.

>> Is there a motion to close the public hearing? Ms. Pool moves to close the public hearing. We'll come back for questions.

[4:30:03 PM]

Ms. Houston seconds that. Any discussion? Those in favor of ending the public hearing, please raise your hand, those opposed? The public hearing is closed. We're going to continue with discussion, in we're going to continue with discussions.

>> Another couple questions for Mr. Thrower. Sorry. Two additional questions that came up in the presentation. Could you help me understand the point that you're making that there would be additional on-street parking with mf-1? Isn't -- aren't the parking requirements tied to the bedroom number?

>> Mf-1 zoning, or rather efficiency parking, you're only required to have one parking space per unit. And until I brought this to the neighborhood attention, I was saying that even with the 20% reduction, with 16 units, we could only -- we would only have to put 13 parking spaces on the property. But if



you're going to have efficiency units, some of them are going to have two people living in them. And where are they going to park? The only option is on the street.

>> Tovo: But that assumption is that if it's mf-1 zoning, there will be just efficiencies. Not any one bedroom, not any two-bedroom.

>> That's correct. Under mf-1 zoning, the maximum development intensity is 16 efficiency units, from a density standpoint.

>> Tovo: But you can still do one and two-bedroom -- you don't have to craft those all as efficiencies.

>> That is correct, yes. But Mr. Khan's intents are that if it's going to be mf-1 zoning, he would do efficiencies on the property, which is like the property next-door, those would be efficiencies as well.

>> Tovo: Okay. So your calculation that there would be more on-street parking is based on the assumption that all of those would be propped as efficiencies and the occupants would have multiple cars for which they would only be required to have one -- the developer would only be required to build one parking spot.

[4:32:03 PM]

>> That's correct.

>> Tovo: Okay. Are these sale or rental?

>> They would be rental.

>> Tovo: Okay. And then my other question is, does Mr. Khan have the intent of reserving any of these as affordable housing? Any of the new apartments?

>> That's not been discussed to any detail.

>> Tovo: Okay. All right. Thanks.

>> Thank you.

>> Mayor Adler: Further discussion? Ms. Pool.

>> Pool: I have a question for staff. And I don't know if it's planning staff or transportation. I'd like to talk about the sidewalks. There are no sidewalks currently on hardy. Mr. Thrower mentioned that it's a direct line to the 801, but you would basically have to either walk in front yards or in the middle -- or in the street in order to get there. So where are we with sidewalks in this area?

>> Greg Guernsey, again, planning and zoning. There is map that's in your backup that shows some and I recall photography, and so along hardy and Cullen, there appears to be sidewalks north of this property. No sidewalks on this property, although as I mentioned, most of the neighbors and the property owner would walk along the existing parking lots that are -- they're all paved, all the way down to Justin lane. There are sidewalks along Justin lane that exist, but I don't see any really sidewalks that are to the east that are in the neighborhood or perhaps further to the north of the existing multiunit project north of this property.

>> Pool: Do you have that overhead you could put up for everybody and show us where the sidewalks would be required with this development?

>> So the red box that you see is the property.

[4:34:07 PM]

They would be required to construct, if they were to build the new apartment units, along Cullen, and that's along the north side of the property, then also along the east side of the property along hardy drive.

>> Pool: On basically just a front edge of that --

>> Just the front edge. In the partnership program, I think was -- you relayed correctly, it is not a guarantee that the partnership program, although there have been many sidewalks, I think, constructed



in the partnership program, they're in a competition with other neighborhoods, and certainly having -- bringing more resources, there are some higher on the list, but not necessarily guaranteed they would qualify.

>> Pool: And I think the neighborhood would welcome the additional sidewalks, and if it went through the npp, there might be sufficient sweat equity, as you mentioned. But generally, the status of the sidewalks outside of that red box going what is west of Cullen avenue, which is that -- that oblique angle there, what's the status?

>> The city would not necessarily require them. They'd be constructed between this property and going further west.

>> Pool: And there's no sidewalks there now.

>> It does not appear to be.

>> Pool: Right. Okay.

>> Houston: Mayor?

>> Mayor Adler: Ms. Houston.

>> Houston: Thank you. Mr. Guernsey, how much per foot does the sidewalk cost?

>> Councilmember, I don't know that number off the top of my head, but I'm sure we could provide it when we come back, if this passes on second reading.

>> Are there any other questions?

>> Mayor Adler: Any discussion on this? Any further debate from the dais?

>> So, mayor and council, we do have two cases that are before you in the plan amendment and the zoning.

[4:36:15 PM]

>> Mayor Adler: Okay. Is there a motion for approval of items 38 and 39? Mr. Renteria moves approval of 38 and 39. Is there a second? Ms. Garza seconds. Any further discussion or debate?

>> Pool: This is just a second reading only; is that correct?

>> That's my understanding, yes.

>> My hope is that if this passes on second reading, which I don't know if it will -- and may I ask what the vote count is required for this to pass on second reading?

>> On each of these, only six affirmative votes are necessary to pass on second reading.

>> Pool: It's on third reading the nine is required.

>> On the zoning, that is correct, you would need nine affirmative votes.

>> Pool: So what I'm going to hope for, depending on the outcome here, before this comes back for third reading, is that we have more conversation with the applicant and the neighbors on the number of units. I am pleased to see that there's a 50/50 MIX of the efficiencies and the two-bedroom, but I am very moved by mayor pro tem tovo's mention about the three-bedroom units, which I think is really key when we're trying to house families. I will note that I think these units are expected to go anywhere from, I think, 1050 to maybe 2000 a month, which is not -- that's market rate; that is not affordable. So what Mr. Thrower said, that there is no conversation about affordability, and that is accurate as far as the pricing on these units, so that -- those are the items that I'll be looking for some additional work between now and if this happens to come back for third reading. Thank you.

>> Mayor Adler: I'm going to vote in favor of this going to second reading.

[4:38:18 PM]

Interested in the conversation that councilmember pool discusses. At some place, we have to recognize that as we are having more and more conversations in this city about transportation and mobility, and



more and more conversations about affordability, the status quo will not let this city get to where it needs to get to, and we need for the city to make accommodations. We need to do it in a thoughtful way. But if we're going to make movement on mobility and affordability, it's going to require the status quo to not remain. The status quo will only get us into a worse place over time. Ms. Houston.

>> Houston: I appreciate your comments, mayor, but we also have to be concerned about impervious cover and water and flooding and so all of those things are -- have to be put in the MIX.

[Applause]

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

>> Casar: Mr. Mayor, just to help my colleagues hear a little bit about why I was asking the questions about the existing tenants and existing residents is that I think that addressing land use cases such as this in the broader land use questions are really tied up with the resolution we passed earlier on tenant relocation. Like it or not, it's a real reality that there needs to be more housing units within the city of Austin, whether it be Alamo new folks coming here or folks that live here that need a place to live and are moving. And if we direct the market to say, well, the only place where you can build multifamily and build lots of units is where there are existing people, and where there's existing multifamily, then we're going to see continued displacement and figuring out where on empty parking lots and underutilized land we can fit folks.

[4:40:25 PM]

Seems to make a lot of sense to me. There has to be a balance with all the other issues we have in neighborhood planning, puppet it seems to me that we can't -- we will just continue having displacement if we don't figure where more of these multifamily units can go. I am interested in the conversation councilmember pool raised, particularly with sidewalks. You know, we want folks to be able to get on transit and transportation, especially if they're this close to burnet road. So thanks for bringing that issue up, and I hope my colleagues will move this along to third reading and we'll see where it winds up then.

>> Mayor Adler: Any further discussion on the dais?

>> Pool: One more thing.

>> Mayor Adler: Ms. Pool.

>> Pool: I was glad councilmember Houston mentioned the flooding. I also meant to include that in my list of things to discuss before third reading, and that is to reduce the percentage of the impervious cover down from 65%, which is what the applicant is asking. The neighborhood is looking for 45 to 55, so that would be a lower flood risk. So I will also add that to the list of conversations.

>> Mayor Adler: Any further discussion? Yes.

>> I guess I'm confused on the impervious cover because when I'm looking at the locates it's all -- looking at the lot, it's all impervious cover.

>> Pool: That's correct. And we're hoping that changes. Recognizing that we are looking for a hundred percent parking on that site, we may be able to find a little bit of room for some green space, even if it's just a little bit bordering a new sidewalk, but I think it's really important to bring some green space to this site because, you're right, it is a concrete -- they're in concrete right there. The whole property is, fairly large piece of property.

>> If this doesn't pass on third reading, it stays a hundred percent impervious cover; is that correct?

>> Pool: If this does not pass on third reading, Mr. Khan's application goes away.

[4:42:29 PM]

>> Garza: And it stays a hundred percent?



>> Pool: For now until someone else picks it up and we can negotiate maybe even more green space than a reduction of about 20% in the current imperv.

>> Mayor Adler: Okay. Any other further discussion on the dais? We have a motion to improve items 38 and 39, second reading only. I'm sorry? We already closed the public hearing by a vote so it's a motion to conclude on second reading only. Motion please raise your hand. Those opposed? Those opposed are Houston and the mayor pro tem. The others voting aye. Before we go into the next item, I want just for a moment to announce and recognize that Joanne Christian passed away just a few hours ago. She was one of the titans of our community. She was trained as a lawyer and only one of four women in her UT law class in 1958. She was a huge civic activist and a downtown supporter of the art. She helped found the Austin lyric opera and helped lead the effort to build the long center. She was one of the three J's in our community. Joanne Christian, together with Jane Sibley with the symphony and Jerry Smith, with the ballet, through force of will, I think, the three of them not only creating those three organizations but really empowering the long center to be built and driving what was the largest private-only event center like that funded.

[4:44:49 PM]

She was the husband of George Christian, who for three years was white house press secretary under Lyndon Johnson, a mother of six, including her oldest, Elizabeth Christian, wife of former mayor Bruce Todd. Our thoughts and prayers now with Elizabeth and the family. We're going to go on to the next item, which was also something which had been pulled. This is item number 40.

>> Mayor, one last comment relating to the impervious cover on the previous one, I had a conversation with some staff a little bit ago about porous pavement, and even if we have some parking areas, we might be able to improve our flooding situation using porous pavement. So we'll put that on our list as well to talk with Mr. Khan about his willingness to look at porous pavement. Thank you.

>> Mayor Adler: Okay. Mr. Guernsey.

>> Thank you, mayor and council. Our next item is c14-2014-0193, the property located at 1601 cedar bend drive. That's a consideration of rezoning on the property from the rural residents of rr district zoning to single-family small lot conditional overlay, Co combined district zoning. The property is currently undeveloped and there are existing residential uses to the northwest, cross Scoville farms and northeast along old cedar lane. On the side the tract directly to the north is developed in the river oaks elementary school, the property designated as sf 1 on your map.

[4:46:57 PM]

The property to the south is part of the walnut creek system. The applicant is asking for sf 4a zoning and looking to construct approximately 118 single-family lots, single-family residences on this property. The applicant does not agree with the approval of the action taken by council on first reading. That has to do with access. In fact, interestingly enough, is signed a petition against their own rezoning case if the access is so required as part of this case now prohibited. The petition currently stands at 22.37%, and the he rode way connections that are in question along cedar bend drive connecting over to old cedar lane and willow wild drive. The commission's recommendation to approve the staff's recommendation for a zoning with some conditions of the neighbor traffic study, adding a conditional overlay that would prohibit access from old cedar lane onto cedar park drive, except for for emergency crash Gates, pedestrian access, and bicycle access. It was approved by the planning commission on a six to five vote, essentially a split vote on this property. We do have transportation staff here that can speak to connectivity issues regarding this property. You do have backup material that was delivered late. I think



there's a letter of support of the commission's recommendation by the principal of the elementary school that's nearby.

[4:48:59 PM]

At this time I'll probably let the applicant's agent come forward and make their presentation. If you have any questions for -- staff or transportation staff, we can offer those after testimony of the applicant and citizens.

>> Pool: And colleagues, while we're now waiting for next staff to come up, I'm now passing out to you the river oaks school elementary school letter. You'll note the river oaks elementary school is deeply concerned about the recommendation from staff regarding the connectivity. So we've been having a lot of conversations with staff, the developer, and the neighborhood to try to chart a pathway, Noman -- yes, a -- no pun -- yes, a pun intended, for connectivity, for bicycles and pedestrians, and also to leave the possibility open for future evolution of the transportation structure. But this neighborhood, which is in the northwestern part of my district, and really, until recently, has sort of been a suburban area, they are dealing with some traffic safety issues that we're trying to resolve and get ahead of with the conversations we're having with staff. So thank you. So you'll have this letter from the principal, which I'll just point out is unusual for the schools to really tell us exactly what they're concerned about.

>> Mayor Adler: Thank you. Is the applicant here, to open?

>> [Off mic]

>> Mayor Adler: Okay.

>> Pool: And this is a lovely case in which the developer, the applicant, and the neighborhood are in very close alignment.

>> Mayor Adler: Angela Pinera tejores.

[4:51:00 PM]

>> If I could have six minutes, please, with donated time.

>> Mayor Adler: Is melody -- yes. Yes, you may.

>> Mayor Adler, mayor pro tem tovo, and councilmembers, thank you very much for seeing us today. My name is Angela, and I'm the president of the river oaks neighborhood association. We're here to respectfully request that you support our compromise that was supported by zoning and planning to protect the safety of our neighborhood due to the lack of infrastructure while preserving the option for future connectivity as councilmember pool mentioned as the needs continued to evolve. The river oaks neighborhood association, not to be confused with the wealthy neighborhood in Houston, is a solid, middle class neighborhood in the frontier of Austin. We researched ever -- reassembled after ten years of hiatus in 2014. We were scrambling the days before Christmas thinking we had to fight a developer over the holidays or lose our neighborhood to cut through traffic. That was over ten months ago and since then we've had dozens of neighbors showing up to monthly meetings to follow progress on the issue. Once we met with the petitioner, rerealized they do not want to build this road and it is transportation staff requiring that they build it. We formed a close alliance with them since then and continue to work together to protect our mutual interest of a safety community, compact relationships, zoning and planning supported the alliance, we're asking council to do the same. Please approve the draft ordinance zoning and planning put forward. As was mentioned, the developer signed our petition to make it valid and signed letter of support as well, stating that they would like to protect the zoning requests, as well as the integrity of the neighborhoods in question. We have also received the letter from the principal of river oaks elementary as sits before you now, citing same safety concerns that we share. The case manager requested down zoning. The original petition was for sf-6 and due to a limit on



vehicle trips per day, case manager Sherri sirwaitis requested they down zone to sf-4a with a conditional overlay limiting vehicle trips per day.

[4:53:12 PM]

This in no way counts the vehicle trips here day generated by the proposed regional connection through this neighborhood. It's a contradictory request to lower density and vehicle trips per day while requiring a cut-through that makes this neighborhood parallel to Parmer lane. The transportation study was flawed. It doesn't count traffic on the main access road, willow wild drive. Councilmember pool was able to put a traffic counter on willow wild drive which showed 1,100 vehicle trips here day, compared to the 464 on old cedar that the study was based on. The substandard connection due to pavement width to create a safety hazard due to the fact this is a regional trait corridor no, just a neighborhood transit corridor. We're at the most narrow point between mopac and I-35, which is the 57th busiest index in all of Texas. Parmer and Lamar is the third most dangerous intersection in Austin and this connection would not improve overall commute time, it would only move commuters from one bottleneck to the next due to the proximity of those intersections I just mentioned. There's very little benefit compared to the risks that's being put out there by the surrounding and existing use, as compatible by complete streets and imagine Austin policies. We like the infrastructure, the sidewalks, the bike lanes, the traffic calming to support the current use. Single-family residences, a major district park, and elementary school, let alone regional levels of traffic along the Parmer tech corridor this doesn't turn our neighborhood into a collector street, it turns it into a mini state Ohio we're immediately on north Lamar, we're immediately on Parmer lane. We're a block from I-35. We're five blocks from mopac, five miles from 45, and seven miles from 130. These regional levels of traffic make this an unsafe connection due to the current lacking infrastructure. We're supporting the goal of exact by supporting the increased density being proposed by the developer and the zoning and planning compromise supports connectivity part.

[4:55:21 PM]

A 6-million-dollar trail has been built through the walnut creek park to provide multimodal access to the neighborhoods beyond it, the domain, burnet, Howard and Cramer stations and access to the tech ridge park & ride. The substandard connection would not be used to access the new or existing developments by ems, as a letter investigated by councilmember pool's office, and the substandard connection would not we used for school buses to access the river oaks elementary. The best and most safe access for new development and proposed development is the protected turn at Parmer and Scofield. Please support our compromise. Support a safe neighborhood, safe streets for all that use the surrounding land for pedestrians, cyclists, students, residents, and everyone that enjoys the walnut creek park. Being a parallel path to Parmer lane will funnel regional volumes of traffic that will destroy the character and cohesiveness of cohesion of not only our neighborhood but all neighborhoods this runs through as we'd like to make this a safe connection. Mayor Adler, mayor pro tem, councilmembers, please support the compromise, support the collaboration of the neighborhood and developer as upheld by zoning and platting. Do you have any questions for me at this time?

>> Mayor Adler: Any questions? Ms. Tovo?

>> Tovo: Thanks very much for your testimony. I have a question about one of the points you raised, and that was I think I heard you say that the school buses would not use this connection to go to river oaks elementary?

>> That's correct. So if you look at the school boundary map for river oaks elementary, they're all south and east of the neighborhood in question. So the pavement width that would be required by boulevard



entry at this connection would not support a safe access to that neighborhood by the school buses, so the best turn for them to excess the school is the protected left turn at Parmer and Scofield.

[4:57:22 PM]

>> Tovo: Have you confirmed that with the school district that they would not be using this as access to river oaks? I guess I'll ask to your staff to come up and talk to that as well. It was my understanding that was part of why they were recommending the connectivity was to improve this for students getting to river oaks elementary. So I guess I'd want to confirm that with that school district, that they were not going to use that piece for connectivity.

>> My understanding is that they are proposing this would improve access of the river oaks neighborhood association to the [inaudible], but all the current families in our neighborhood that attend this elementary school walk their children to school. So they're using the current connectivity as a safe pedestrian and cyclist access.

>> Tovo: Okay. But just back to the bus routes, is that information you have from the school district?

>> I have information that no buses would currently route through there because no buses stop in our neighborhood. So based on the location, and if I had a map, that would be a helpful demonstration, based on the location of the neighborhoods that do have bus routes, there would be no path through the neighborhood, as opposed to Parmer to Scofield.

>> Tovo: Okay. Thank you.

>> Pool: I think we might have a map. I'd like to put it up on the overhead. I think it would help. And, Angie, thanks for coming.

>> Thank you.

>> Pool: Let me just -- I don't know if the mayor pro tem is done with her questioning yet. Okay. Could you point out on there the connections that are going to happen with Scofield farms and how that --

>> Yes. The proposed connection that is a pink dotted line is, from what I understand, a done deal. And that connection will happen to provide access to the new development and connectivity there. The proposed connection that we are opposing shares both the green line and the pink dotted line. What I was referring to with the bus routes is our neighborhood was in the -- I'm sorry, let me --

>> Mayor Adler: Can you pull back --

[4:59:23 PM]

>> Pool: Let's go back to the other map. Thank you.

>> So the upper right corner of the pink lines is our neighborhood in question. And the green line and pink dotted line is the connection that the valid petition and the neighborhood and the petitioner all are opposing.

>> Pool: And can you point out where mopac and I-35 are?

>> Yes. The other than line to the right is I-35. The Orange line to the left is mopac.

>> Pool: And so the pink line was the narrower, like the waist, the narrowest distance between those two roads that you were talking about earlier?

>> That's correct.

>> Pool: And is the neighborhood's concern that if both of those pink dots, if those two roads were connected, that it would become -- that's the -- that's the unsafe connection; right?

>> That's correct. So anyone who's accessing their work along the Parmer tech corridor at Dell, GM, Samsung, apple, might be commuting from 35 to mopac across Parmer lane at that point, and that's a high percentage volume of traffic that we see, based on speaking to several colleagues in I.T. So the connection all the way from mopac to Lamar, putting you one block from I-35, is the connection that



we're concerned about. It isn't just improving access to or no a neighborhood, it's providing complete parallel path to a state highway one block removed from where the traffic should be directed.

>> Pool: And can you describe the location of the green line and the pink dots? Is that within the new residential neighborhood?

>> That would be within the new residential neighborhood, yes.

>> Pool: So this would, in fact, be taking a direct line in front and between the new houses.

>> That's right. So this would send the parallel traffic to Parmer, not only through the neighborhood on the right, which is river oaks, but the neighborhood on the left, which is tanglewild estates, which is along the proposed homes.

[5:01:27 PM]

I think a third of the new development would be affected by this cut-through.

>> Pool: On the request from the neighbors is not to allow that to be vehicle access at the top there where it says old cedar lane, but rather to allow pedestrian bicycles. Is that what's there now? How is that connection being used currently?

>> So currently, there's somewhat of a goat path that's used to provide access along the park. There's also another goat path farther? A. No you can barely see it along willow wild, that's a trail students take to walk to river oaks elementary.

>> Pool: And that's a safe connection for the students?

>> Yes. Uh-huh.

>> Mayor Adler: Okay. Help me understand the proposal as it came from the planning commission like is to -- is it to build the road but block the road off with a crash gate or something like that?

>> That's correct. We're very happy to be able to compromise on that. We're hoping that when the infrastructure to make this a safe connection is in place, we might be able to support the future needs of connectivity but since we don't have that infrastructure now, building a road and putting up the gate or any other proposed blocking of access to that road would make sure that we're safe until that infrastructure is in place.

>> Mayor Adler: But so that I understand, the proposal is to require the building of the road, albeit with a crash gate, but that still allows pedestrian and bicycle access.

>> That's correct. As well as ems.

>> Mayor Adler: Is there further conversation on the dais? In the Garza.

>> Garza: What do you mean by better infrastructure? So basically a wider street with more lights, and that connection would be okay?

>> So what we'd like to see is walnut creek metropolitan park is the official park of the Austin ridge riders, the premier mountain biking club in Austin.

[5:03:28 PM]

There are a ton of cyclists that access that every day. We'd like to see bike lanes in place for their safe access. In terms of preserving the character of the neighborhoods there, we'd like to see sidewalks so we can walk safely in our neighborhood as we can do today without the proposed volumes of traffic, as well as traffic calming along willow wild and potentially old cedar.

>> Garza: Okay. I guess I just don't understand the idea that eventually it would be okay to open this, when eventually the need to open it would be because there's nor more density and possibly more traffic.

>> Right. We're hoping there might be room for compromise on the mechanism to determine when and where that might be opened. For example, when we're able to have our requests for sidewalks



prioritized and built, when our requests for traffic calming are prioritized and built, and bike lanes as well.

>> Garza: Okay.

>> Mayor Adler: Okay. Further discussion on the dais? Anyone who hasn't had a Callaghan to speak? Ms. Gallo?

>> Gallo: You know, it's interesting because I'm really familiar with this area. My parents actually have a house on Parmer right as you go down the creek which the city bought, water detention areas. My brothers went to Parmer lane elementary school, and I lived on -- actually had a duplex on willow wild when willow wild did not go through at all. So it's interesting, but I do appreciate the concerns about the connectivity with roads, and particularly when we're adding more residential to allow people multiple accesses in and out of subdivisions. You know, the risk in this area is not as great as some was western areas that I represent but still when we have any kind of a dangerous condition in a neighborhood, I think it's better for neighbors to be able to have multiple ways to exit their neighborhoods. So as councilmember Delia -- Garza, excuse me, and I -- I just am really struggling with the reason we would not want that street connected.

[5:05:31 PM]

And I know there's safety issues. Hopefully maybe what part of the quarter cent fund your councilmember will help with some of those traffic mitigation things that you've addressed as part of that fund spending, so --

>> Councilmember Casar knows there's a lot of quarter cent fund along north Lamar, not just our area. There's a great need, citywide.

>> Gallo: That's right, citywide. Thank you for being here.

>> Pool: I think it might help if we could put the map up that shows where the road is, I think that might help.

>> Mayor Adler: Okay. Ms. Kitchen?

>> So the proposed connection is the piece in Orange, and those are all the homes in the proposed development that would be affected by that.

>> Mayor Adler: Okay. Congratulations, by the way, on your appointment to the planning commission today.

>> Thank you very much, Mr. Mayor.

[Applause]

>> Mayor Adler: I'm proud to have nominated you.

>> Thank you very much. Inspired by all of you to serve.

>> Mayor Adler: Thank you. All right. The next speaker that we have on the list is Hugo Elizondo. Is Herbert Grubb here? Okay. Thank you. You have six minutes, Mr. Elizondo.

>> Okay. Thank you. First of all, thank you, mayor and councilmembers, appreciate the opportunity to be here before you.

[5:07:35 PM]

I'm here representing our client, mkm ventures. We've been working with not only our client but city staff since November of last year. So here we are one year later. A lot of that had to do with simply trying to work with the river oaks neighborhood association. The -- when I looked at this connectivity question, or when I looked at the street connection, you know, I tried to weigh in on my experience as a consultant engineer, my experiences working in the public sector, representing cities and counties, and the -- we try to drill down on every project and understand exactly the specifics and the merit of each



request. When we looked at this connection required by transportation staff, we had already made a determination to make our access to the development safer by providing a boulevard of entry, and also -- and that helps the emergency service districts in not having to shut off access to a development if there's an accident there at that intersection. Keep in mind that this project will not be put into place or implemented without the extension of cedar bend onto Scofield. And that really provides the collector for the area. What came back as a recommendation from city staff was simply to make a connection to an established neighborhood whose street network is simply acted as -- and played a role as local streets.

[5:09:49 PM]

We also asked ourselves a question, you know, is it needed from a safety standpoint, and as one of the - as Ms. Gallo pointed out earlier, in this particular location, the dual access is not as important as it is in heavily wooded areas. And, you know, we have a park beside us that, you know, easily can provide access as needed, a school district beside us. So in my opinion, providing the boulevarded entry provides safety -- response to the safety question. In regard to the connectivity, you know, I'm an engineer, and I -- I model quite a few different types of infrastructure. When I -- when someone asks me, what about this pipe network, do you need -- can you use another pipe? You know, the first answer is, yes. You know? A pipe network always needs more pipes. And I felt that when the question was posed to city staff, in their analysis, do we need another street, the answer was, yes, we need another street. And you on the council understand, as well as anyone, that extending a street not only provides a connection, but it also provides a need for long-term maintenance on that -- on that stretch of street. I don't -- I'm concerned about the safety on old cedar lane, if it's opened up, because of the existing character of the neighborhood. We are not opposed to a secondary or emergency connection, but we would like for that to be simply that and supported by pedestrian and hike and bike access.

[5:11:54 PM]

We provide access to the park. We will provide sidewalks throughout our neighborhood. We would like to see our traffic channel directly to Scofield or cedar bend, whatever it ends up being called, and all that neighborhood traffic does not have to go through an existing neighborhood. The other thing that I wanted to point out is that the -- the the existing neighborhood has developed a pattern which they are able to access two arterials that bound them on the north and on the east side, so you have a pattern there that has been -- that has manifested and has a history of working, working pretty well. The thing that I was really concerned about in modeling again, you know, it's -- the data you input will determine what you get as output. And I think there's -- it's really unknown how much more traffic will actually be using this connection to -- through the neighborhood. I think the model underrepresents that, so the Numbers are off, in my opinion. I want to close by saying that we have worked on this diligently with the neighborhood.

[Buzzer sounding] And I'm always very pleased to see or to work on a project where the neighborhood and the applicant work together. It's not always that way, as you all know.

>> Mayor Adler: Thank you.

>> And I think it's -- they both should be commended.

>> Mayor Adler: Thank you.

>> Thank you.

>> Mayor Adler: Next, Mr. Zimmerman -- hold on.

[5:13:55 PM]



>> Zimmerman: Hang on. Sir? Sir?

>> Sorry.

>> Zimmerman: So your technical opinion, if I understand correctly, your technical opinion on this, right, based on traffic patterns and all the experience you have, is, you agree with the neighborhood and with the developer that this zoning request could be approved and the area could be developed without the traffic connection.

>> That is correct.

>> Zimmerman: Yeah. Okay. And so is the only group or entity that's pushing for full connection the Austin traffic department?

>> Yes. It was part of the neighborhood traffic study recommendation.

>> Zimmerman: Okay.

>> Mayor Adler: Thank you. Next speaker is John luden. Is John here? Debra Yates is on deck. Next speaker.

>> Thank you very much. Could we bring up the last map that we had up with that Orange and green, showing that close-up of this property and development? Mayor, mayor pro tem, councilmembers, I appreciate the opportunity to address you on this particular subject as it impacts our neighborhood. It impacts the elementary school adjacent to our neighborhood. And it impacts walnut creek park. We haven't talked about that very much here yet today. If you take a look at the road, on the very right hand -- I call it a road, it's really not, it's parking lot access is what it is, through walnut creek park, that is a very narrow roadway, intended for nothing more than access to and from parking areas in walnut creek park. The speed limit on that park access road is 15 miles per hour. Now, imagine if you had overflow traffic -- I say overflow -- traffic or Parmer lane trying to circumvent the traffic light at Lamar and Parmer, coming down Scofield farms road, turning in to the new development, and accessing north Lamar through that park road.

[5:16:18 PM]

A disaster in the making. It's 15-mile an hour for a reason. There bicycles, walkers, families making their way to the pool, kids playing there, ball fields that are accessed, and a boat load of cars parked along the side of that road at present. You can park on one side, but not the other, narrowing the word even further. Now, routing traffic or giving traffic an access to north Lamar through your park runs contrary to everything you are presently doing to expand the walkways, hike and bike trails in that park area. In short, it makes very little sense to me. Additionally, if they're cutting through to reach north Lamar to go over to I-35, you can do that through the neighborhood, and if that's the case, you have kids walking to and from school, and once the traffic reaches the corner of chimney rock drive and either takes a right-hand turn down to Yeager, there is a high school on that corner. Nios is located on that corner, not your ordinary school, and a bunch of kids walk to and from that school, not only from our neighborhood but from points beyond. So at this point, I don't understand the city transportation department requiring that we build a roadway from the elementary school there is opposed to, the neighborhood is opposed to --

[buzzer sounding]

-- And that would negatively impact walnut creek park. There is no benefit to putting in that interconnect.

>> Mayor Adler: Thank you.

>> Thank you very much.

>> Mayor Adler: Thank you, sir.

[Applause]



[5:18:21 PM]

>> Mayor Adler: Gary Westerman, and I think Debra Yates is on deck.

>> I'm first?

>> Mayor Adler: Yes. Mr. Westerman.

>> I'm used to this podium. If you could put up the one -- it's just going to be five slides on this one, hopefully to the point. My name is Gary Westerman, district 7, Leslie pool, thank you. River oaks neighborhood called Rona. The reasons why the developer wants a walking and biking path is clear. 98% of the neighborhood wants a walking and biking path. A walking and biking path is strongly supported by walnut creek and Gracie woods neighborhood associations. None of the challenges of connectivity are addressed. If you wanted two more pages on that one, slides, I could cover that. This is not connectivity of two neighborhoods, it is across town route for motorists, from mopac to Lamar, ih-35, parallel to Parmer, and cannot increase capacity. The road, this conflicts with the city of Austin complete streets policy. In this policy, it states bicycles and pedestrians 38 times together. Whenever it comes to motorists, it states twice. Whenever it comes to -- I just go on those two right there, and that was just passed by the city council last June. The connectivity, the road would require vacation of walnut creek parkland, approved by the city council. The statement sent back, after further discussion, we may be able to turn the parkland into row with city council. Anything is possible if they wish to push this through. Now, this is the kind of description. You have to look up here on the top, it has Parmer lane route.

[5:20:24 PM]

That is Parmer lane. It has five stoplights on it. The red boxes with blue in between. Over there to the left is mopac. At that mopac, that is where the hospital complex is. It's on cedar bend road, thousands of people work there. Right below is ACC. Thousands of kids go there. With the new road, you can see as you go up metric from mopac, you come across and it goes up to Parmer lane, with the addition of this new piece that I could show you on another slide. Now, a blue circle, small one, that's going to be cedar bend drive. That's a new neighborhood. River oaks is right there on the larger cycle. You can see if they cut this one through, it's just a direct path through the neighborhood, parallel to Parmer lane, also going through the park. Now, connectivity. Last few months have been listening hard and heavy, that word is used so much by planning and by city council. This is one of the slides they use for training, except on this one, their slide, they do not have the five lights on --

[buzzer sounding]

>> Mayor Adler: You can finish.

>> It goes right there, then it goes impact to safety. We have a school right here. The kids come down to the school five houses away, and here's a summary right here.

>> I donate three minutes of my time.

>> Okay. Thank you.

>> Mayor Adler: Thank you. Is Debra Yates here?

>> I'm not that long-winded.

>> Mayor Adler: Okay. Is --

>> Right there, that's the developer builder of the community.

>> Mayor Adler: You have six minutes.

>> Thanks. Oh. I'm Debra Yates. I own and I'm the broker of urban properties in Austin, and I will be the new marketing director of our community, which is dominion Austin.



[5:22:30 PM]

I want to thank everybody for the opportunity to speak. I've never done this before. This is a new experience for me. There are several points I want to make. The first, I want to give you a history of the area because I don't know if you all have had the opportunity to go out and look at the community, look at the surrounding areas to kind of determine how you might feel about all this. But I have a couple of different illustrations. Yeah, that one is first. That's good. Here you go. Okay. So this is a nice overhead view of everything around us. I want to point out three different things. Dominion Austin is the subject site that we're talking about today, and I'll get to it in a second. Community Viejo, if you see the green highlighted area, I think several people have talked about that community today. If you look at the Orange area that is cedar bend, that's another area that we've developed and built. It's not finished yet but it will be shortly built out. And of course we're going to move on to dominion Austin. One of the things I want to point out, and I'm not here to tout his accolades, the developer, but we've been working together for about ten years on all these projects. The tanglewild straits, the green highlighted area, was an old mpc site. I know you haven't heard those three letters in a while but it's an old mpc site, about seven and a half acres, zoned sf-6.

[5:24:31 PM]

It was supposed to have 60 duplexes on that site. We down zoned it to sf-2 and put single-family homes. One of the things about this site that was really important, there was all one- to five-acre lots around it. Can you imagine the disaster there would have been if we came in and put 60 duplexes in the middle of it. Cedar bend, same thing there, we did the right thing. We took the property, zoned it down from sf-6 duplexes, to sf-2. We have single-family homes. A lot of people don't know this, and a lot -- actually river oaks folks don't know this, but we were approached -- when I say we, the developer -- was approached bay commercial broker from Dallas, Texas, and he said he could get up to \$10 million for this site if he could put apartments on there. And Mr. Menhouse said, nope, and never had another meeting with him. So we're trying to do the right thing by putting single-family homes in this area. We've never had any other site in mind, we've never had any other idea in mind accept single-family homes on this site. In fact, we've been waiting for this site for ten years. It's a beautiful piece of property. It's got, you know, little walnut creek running through it. We're going to put approximately a five-acre park along the creek for our homeowners. So, again, we're trying to do our best to do the right thing. And what I'm asking of y'all today is to vote not to allow a thoroughfare through our community. You know, I mean, the ten-acre site, I used to sit on Sunday mornings in front of it so I could wave to each owner, and he would be on his tractor. That's the only time he fed his cows. I must look like a realtor, and he would run the other way on his tractor. This is something we love. We love this piece of property. We want to do the right things with this piece of property and we don't want a thoroughfare going through this property.

[5:26:31 PM]

If you could put the second thing up for me real quick. Okay. This is the one you've seen before. This is not obviously a final plat or anything, but the reason I highlighted the Orange lots is because, as a broker, traffic through a neighborhood totally destroys, traffic up to maybe 10,000 cars a day, we don't know yet, we'll never know until it happens, will destroy the value of this property. It affects a third of my lots. I even planned one further south on the ones on the left, when you have people coming in and out, there's lights that affect -- when you have that many cars coming in, lights affect the value of the property. And so what I'm asking you today is to do the right thing, you know, support us in not putting that road through, because it's going to jeopardize the values of those homeowners. As a broker from



the Texas real estate commission requires me to disclose, so what am I going to disclose when somebody asks me, well, deb, you know, I really loved your property, really appreciate what you're trying to do. How many cars are going to come by my house a day? I don't know. I have no idea. Because it's not going to be developed yet at that point. If they ask me, well, how is this going to affect the safety of my children? I don't know. I don't know if anybody is going to be hurt. I can imagine that that many cars coming through, it definitely would jeopardize the safety of their families. And then when you come home at night and you leave in the morning, I mean, your home is like your haven. You don't want to wait in line, literally, for 15 cars to go up and go through your neighborhood so you can either pull out in the morning, when you've got to get to work, and most of us are always running late, or come home and have to wait in line to pull into your driveway. That's just not a good quality of life. So what we're trying to do ised to the right -- is to do the right thing, do a lower density, and create a quality of life for the homeowners, not just us, not just the dominion Austin, but the river oaks folks, the tankwild estates people, the cedar bend people, you know, everybody around there, it's a wonderful community if you ever get a chance to drive out and take a look, I think you'd support us.

[5:28:54 PM]

Okay. That's it. Thanks.

>> Mayor Adler: Thank you.

[Applause]

>> Mayor Adler: Next speaker is Matt --

>> Nobody has any questions? No? Okay.

>> Mayor Adler: Doesn't appear that way. Matt baker. Is Diane luden here?

>> Diane has donated her time to me.

>> Mayor Adler: Yes. You have six minutes.

>> Thank you. I don't think I'll need them, but -- so, mayor Adler, mayor pro tem tovo, councilmembers, my name is Matt baker. I'm an officer of the river oaks neighborhood association. Drive like your kids are here, kids live here. Have you guys seen these signs around town, anybody? I've counted eight of these on my street alone. Now, when these signs start popping up like mushrooms along residential streets, it's symptomatic of a larger problem. It means that too many cars are passing through the neighborhood, too many of those cars are driving too fast, and too many of those cars are coming from and going to somewhere other than the neighborhood itself. Now, in the case of river oaks, which has no sidewalks, no bike lanes, and no traffic calming devices in place, it also means that our streets are not safe and accommodating for bicyclists or pedestrians. In short, what it means is that there's a connectivity gap. There's way too much connectivity for cars, and there's not nearly enough for anybody else. Connectivity is the rationale that city staff is using to require a connection between river oaks and the proposed development to our west. We know all about connectivity in river oaks. We're already providing our fair share of connectivity to motorists who don't live in our neighborhood and don't drive like good neighbors. We provide connectivity to motorists who are entering and exiting the very busy and very popular walnut creek metro park. We provide connectivity to cyclists to park along old cedar lane to access the trailheads, and we provide a lot of connectivity to motorists desperate to provide connectivity to Parmer and Lamar.

[5:31:07 PM]

With over a hundred thousand vehicles a day passing through that intersection, who can blame them for taking a speedy little detour down our streets? And now, in the name of connectivity, city staff wants to inject even more traffic into river oaks. In the words of Samuel goldwin, including me out. We believe



city staff -- we believe city staff's position is based, as Angie detailed, on a fundamentally flawed traffic analysis. I believe other folks from the neighborhood and also our friends from the developer are detailed that. We disagree that connectivity is adequate justification for diverting traffic off of a regional six-lane arterial through an established neighborhood with no infrastructure, zero infrastructure for safe pedestrian and bicyclist transit. We assert that the proposed connection is in direct conflict with imagine Austin and complete streets. The connectivity envisioned by those policies is safe and multimodal. The connectivity proposed by city staff is neither. Finally, we reiterate the proposed connection is proposed by the neighborhood, the developer, the zoning and planning commission, and river oaks elementary school. We've all heard the phrase broad coalition. Folks, this is a textbook definition of a broad coalition, opposing this vehicular connection. We ask the council approve the zoning request, with the conditional overlay as recommended by the zoning and platting commission. We ask that you please vote like your kids live here in river oaks. Thank you.

[Applause]

>> Mayor Adler: Do we have Herbert Grubb here? Did you want to speak?

>> No, I gave my time.

>> Mayor Adler: Okay. And then also Diane Butterfield?

[5:33:08 PM]

>> She gave her time to me, mayor.

>> Mayor Adler: Okay. Thank you. That then is all the speakers that we had. Back up on the dais, is staff here? Transportation staff?

>> Mr. Mayor?

>> Mayor Adler: Yes.

>> This is an order to close the public hearing?

>> Mayor Adler: Yes. Mr. Zimmerman moves to close the public hearing. I'm going to let Ms. Pool move to close and Mr. Zimmerman second that motion. Those in favor of closing the public hearing, please raise your hand. Those opposed, it's unanimous with the folks on the dais, Casar and Houston off the dais. Would you talk to us about transportation issues relative to this matter and connectivity in the context of the traffic that would be on this road.

>> Gordon Derr, assistant director, Austin transportation department. The transportation department worked with the planning department and Andy and his staff in the development of the staff comments on this project. As we've discussed on many occasions, we think connectivity is very important. In this particular case, the alternatives are Parmer lane or potentially a connection so someone would not have to use Parmer lane. In looking at the 2012 to 2014, the accident rate on Parmer lane was about 200 accidents per hundred million vehicle miles traveled. Typically, across the state for residential streets, for narrow streets that have residential activity on them, that accident rate is about 184 accidents here hundred million vehicle miles of travel. So there is an inherent safety in having safety slow and to be able to connect neighborhoods with slower connections.

[5:35:17 PM]

So at this point, the river oaks neighborhood's options are use Parmer lane, which is very fast, Lamar boulevard, which is fast, or east of this location. That's why staff has consistently said we think it's important to have connectivity as alternatives to Parmer lane and we think it will make the overall system safer to have that as an alternative.



>> Mayor Adler: Is one option in this case that's been discussed, as presented by the planning commission, is to require the road to be built, put up the crash Gates, subject to providing for a safer road. Do you ever do anything like that in a plan? Is that fair prudent planning process?

>> Well, in two cases I'm aware of, we have done that, one off morrow street, the second is potentially Lightsey where there have been streets built, and artificial closures because of those public right of way. At this point I think we're still trying to develop what a policy should be and what might be thresholds to look at when we get those up or close other potential connections. I don't know that we have a definitive number or policy or process in either of those cases, and I know we're discussing some of those now.

>> Mayor Adler: And then finally, with respect to what was proposed by the planning commission, with their recommendation, does that require the road to be built as it would otherwise have been built, but with the imposition of a crash gate that allows for bicycle and pedestrian access?

[5:37:24 PM]

Is that what that was?

>> That's my understanding of their recommendation. Again, we feel that there's safety for the entire system if that connection is made. It certainly would be beneficial to have the bicycle and pedestrian connection through there. The sidewalks have been built on Scofield farm, down to the edge of the property that the -- the existing pieces, so that connection can be made. But we still think having access, all the options available would produce a safer overall system.

>> Mayor Adler: Thank you. Any other questions of the dais? Mr. Zimmerman, then Ms. Tovo.

>> Zimmerman: Thank you, Mr. Mayor. So I guess we have maybe -- is it a professional difference of opinion, or maybe a policy question, as Mr. Elizondo, I think in his professional opinion, it would be better not to have the thorough -- the through connection, and I guess your opinion is, technical, it would be better. So seems like we have just a conflict of professional opinion, it sounds like. I mean, based on what I've heard, I'm very much inclined to vote with the neighbors on this issue.

[Applause] And, you know, when I have two expert opinions and they're in opposition, it makes sense to go to the consensus of the people that live there? I just think that should be the case, so ...

[Applause]

>> Tovo: I guess I want to understand the staff recommendation a little more. I'm looking over the information from the transportation reviewer that talks about having a gated community being in conflict.

[5:39:26 PM]

She didn't use that word. She said in accordance with the complete streets policy and imagine Austin, staff recommends that a gated community be prohibited. Can you help us understand -- I think I understand your point about Parmer lane and the danger there, and so is it the staff's perspective that the new residents of this development will -- will be routed if they don't have the connectivity that staff is recommending that they'll take Parmer lane instead and it will exacerbate that safety situation, or are you supporting the connectivity in part to get individuals coming from 35 over to mopac and off Parmer?

>> I think there's a number of people that could benefit from that. I think some people coming out of walnut park that want to go to the north and west would have an opportunity to go over to Scofield farm and use that signal to make their left turn, which would certainly be safer than taking the left turn off of willowwild. I think in the converse, there would be opportunities for the folks to the west to move to area destinations. I think there would be opportunities -- the river oaks neighborhood, I understand the middle school they go to is on the north side of Parmer off of Scofield farm, so that, again, there's an



opportunity for them to use the signal to get over to that location, as opposed to the unprotected intersections that are along Parmer lane right now. So I think there's combinations in both ways, but -- I'll leave it at that.

>> Tovo: Can we talk about the school for a bit? I thought I heard in some earlier conversations, not here today but earlier, that it -- that the connectivity was beneficial for families going to and from the elementary school.

[5:41:32 PM]

Was I accurate in thinking that was part of this staff's recommendation, reason for recommending the connectivity?

>> Yes. Again, because someone from the neighborhood, neighbor they have alternative means, but on a rainy day, they might drive, again, they're making an unprotected turn across Parmer lane to get to the school, and they don't really have an option to use any other streets to get to the school.

>> Tovo: So I was surprised, given that I thought I had heard that perspective, I was surprised to get the letter from the principal today. And I wondered if you -- if our staff have had any contact with that school -- with the school administration at that site to hear their concerns about the safety and -- I mean, we -- our office reached out this afternoon, but I don't believe we heard back from her. But, you know, again, I think we have two differences of opinion. We have our transportation staff suggesting that it would actually make it safer for the families of students, and the principal expressing concern about it from a safety perspective, so I want to be sure that she's heard your perspective and still believes that it's not a safe situation to have that connectivity. I'm just -- I'm really wrestling with this one because it's just -- I don't know, it's just a challenging discussion. We don't -- the perspectives seem to be really opposed to one another, and generally I think we strive to have connectivity and not to have gated communities. And so I hear the neighbors' perspectives on this and certainly want to respect them, but I think we need to make a real careful decision.

>> Andy says we haven't particularly talked to them, or I guess --

>> Mayor pro tem, Greg Guernsey, planning and zoning. I'm not aware of direct contact necessarily with the principal. I know when we work with aid, it's usually we're dealing with their administrative offices because sometimes the decisions that are made at the campus level maybe conflict with administrative, but we can talk with the principal and talk with the school district if this would be approved on second reading, and then come back and bring that information.

[5:43:51 PM]

I'm not sure where buses go for the middle school, which is further to the west, or the school -- the kids that go to Connelly high, although that would be a right turn, it would be a left turn in the neighborhood, and I think kids that go to the middle school, so ...

>> Tovo: And if I may, I would appreciate our staff having that conversation and also one of the neighbors earlier talked about the buses wouldn't use this -- wouldn't use this piece of connectivity anyway because of the width of the road. So those are all issues I'd like more information about.

>> Certainly.

>> Tovo: Thank you.

>> Mayor Adler: Ms. Garza?

>> Garza: Yeah. I'm really conflicted about this one, too, because I've never been a fan of crash Gates. I feel like these new developments are proposed -- this is not for you -- you can sit down, if you want -- these new developments get proposed, and then the neighborhood gets mad, and so without consent of the new people that are going to be living there, we agree to a crash gate. And I feel like the new



people living there probably would prefer to have two ways out, not just one way out. I have -- we're actually going to discuss a zoning case in my district where I wish we could have two ways out, but I'm really opposed to it because there's only one way out. And it's going to create a lot of traffic on a very rural road. So I'm -- I guess I don't understand the issues with the neighborhood being against this additional connection. My understanding also is that Scofield farms light is really backed up as it is right now, so we're just creating more traffic on that road to come out to Parmer. So -- and I don't -- in looking at the map, where the school is, I don't know how anybody could walk to it right now.

[5:45:53 PM]

It looks like the only way in is Scofield farms. So right now, that school is -- so like mayor pro tem said, I feel like this extra road provides a way for, you know, walking and more -- I don't know, I just don't -- looking at this map that I'm looking at, there is no -- I don't see a road where, aside from Scofield farms, where folks could walk their kids to that school.

>> What we've been told is, they walk to the end of that cul-de-sac that terminates into the school property and then walk across.

>> Garza: Okay. Okay. Yeah. I just -- I feel like we're continually having these crash gate cases with -- we'll open it up eventually, and I don't know if that -- I'd like an example of a crash gate that was opened up eventually, but I'm very conflicted on this, too.

>> Mayor Adler: Ms. Kitchen.

>> Kitchen: For me, cut one of the concerns is timing, you know. It just has to do with the need for other infrastructure. If I'm hearing the neighbors correctly, and I don't know if you have a thought on this or not, but the concern about sidewalks and cut-through traffic, if I'm hearing correctly, the concern about the neighbor -- this connection being a cut-through traffic to avoid Parmer, and the concerns that might happen to the neighborhood there. So, you know, I -- I get and I understand the need for connecting, you know, the roads, but I'm concerned that if we just -- if we don't also have a whole plan, you know, for the infrastructure -- and that's not your department's responsibility, but if we -- if we don't have a whole plan for the impact on the neighborhood, that's why I'm interested in the -- that's why I see crash Gates, for example, as one way to start down that road of connectivity, but don't get there until the infrastructure is really ready for it.

[5:48:00 PM]

I think one of the speakers spoke about that.

[Applause] I think it was one of the speakers said something to the effect that the neighborhood recognized that at some point the infrastructure might be there, and that they would feel more comfortable with the road going through.

>> Mayor Adler: Any further discussion? Is there a motion to approve this on second reading?

>> Pool: Mayor?

>> Mayor Adler: Yes, Ms. Pool.

>> Pool: I wanted to address some of the issues that were raised here but I know I can't do that and make a motion.

>> Mayor Adler: Why don't you make a motion, then eighth let you debate it first.

>> Pool: Okay. I just want to approve the draft ordinance as written on second reading that will allow us time between now and the next reading to craft a plan, if possible, for sidewalks and trigger for the opening of the gate.

>> Mayor Adler: Is there a second to this motion? Mr. Zimmerman seconds it. Ms. Pool, I'll let you address it first.



>> Pool: Great. Thanks. Couple, three or four different things, I just wanted to toss out there. First, I'll say that putting that gate in there represents a compromise that the neighborhood and the developer came to with the city staff because the city staff, as you can tell, was recommending a street which is essentially a cut-through, through a new residential neighborhood. There was one portion of the plan that didn't have that northeast exit. If you notice on this map here, there's a lot of cul-de-sacs developed in this part of the city, and I think Mr. Menhaus and Ms. Yates pointed out that two of these developments were done by Mr. Menhaus. Originally the plan was to do something similar. I will point out that the city council has regularly approved these platting and these layouts with the one entrance and exit.

[5:50:07 PM]

I recognize that is policy direction we're trying to move away from, but I would tell you, this is not a gated community. The gate represents an exit on the east side, which is a second exit. You'll see up at the top of this Scofield farms, you see this -- the parcel in the middle of the screen, and then the stub into it, that's early. This is not a gated community and I really want to make that clear.

[Applause] The kids walk to school, and they walk across what is essentially a big open field, and they're comfortable with that. They're safe. The parents can see them walking, they walk with them. This is a lower income elementary school in the pflugerville ISD district. The kiddos primarily come from multifamily apartment houses that are in different parts of the city, and the buses come across west Parmer lane, and they come down Scofield farms. The conversations that my office has had with the pflugerville ISD folks and the principal are that those are, by policy, the routes that those buses are required to take. They're required to take roads that have signalized turning -- signalized turns like traffic lights. We did have some conversations with staff about adding another light on Parmer lane because there are insufficient stoplights along this road to slow the traffic speed. I hope that we continue to engage that conversation, but I also understand that txdot is -- owns Parmer lane. The city of Austin doesn't. So that's a higher hill that we have to climb in order to slow the speeds and regulate them on Parmer lane. The point there being that pflugerville ISD would not be sending the buses down narrow, what are essentially some of these remnants of rural roads.

[5:52:14 PM]

There was a mention that we will have a case later tonight that will create a lot of traffic on a rural road, and my distinguished colleague plans to vote against having that happen. That is exactly what will happen if we open this new development on the east side onto old cedar lane. That is an old remnant of a rural street. It has no sidewalks. It's not very wide. And as has been pointed out before, it also has an entrance to the walnut creek park. And where that gate would be would create a collision of -- a variety of entrances and exits that would make for an extremely unsafe intersection.

[Applause] So I think I will just leave it at that. We are looking at only second reading for tonight.

>> Mayor Adler: It's been moved and seconded to approve number 40 on second reading. Yes. Councilmember Renteria.

>> Renteria: When we had our first discussion here earlier this year about a development that was being built in south Austin, I warned people that -- my colleagues that this is exactly what we're going to be facing in the future. We're going to have these developments coming in, and we're going to have people demanding gated communities. And that's exactly what we're going -- this is the second time that I'm going to take a vote, but my position has always been to do away with these gated communities because I feel that, you know, we're one Austin, and I'm sure that I would like to have a gated community in my neighborhood because I've got all this 35 -- ih-35 traffic going through there, awash



that we could barricade all my streets in east Austin so we wouldn't have to put up with all this traffic that comes through my neighborhood, you know.

[5:54:26 PM]

That's what we should -- if we're going to do those kinds of things, we should allow all communities, just gate themselves in so we won't have to put up with the rest of the traffic, the people that come from outside the suburb, come and cut through my neighborhood in inner city, just so they can get to their work and back. You know, that's what we're looking at.

>> Mayor Adler: Okay. Ms. Garza?

>> Garza: I'm still trying to understand the connectivity. So I see this cul-de-sac that one of the neighbors yelled out, Sdbarg trail is what folks use to walk to that school and I don't see how this road affects that from still happening. Folks can still walk from that cul-de-sac to that school without an extension of this road affecting them. And I'm assuming you were talking about the Cooper Lane case and I'm not voting against it, just FYI.

>> Mayor Adler: Okay. Ms. Houston.

>> Houston: Thank you, mayor. I try to be consistent in my votes, and so I have many cul-de-sacked communities that have one way in and one way out. There's a stub there that the city has never had the money to build a second exit so that in case of an emergency, people could exit from the neighborhood. And so I will be voting against that because I think every community needs one way in and one way out in case of an emergency. And I also am consistent, the first case we had about a crash gate, I voted against that, too, and I will be voting against this one as well. Mr. Zimmerman.

>> Zimmerman: Thank you, Mr. Mayor. I wanted to say quickly, the solution to expanding the traffic capacities of our arteries, I have issues in district 6, 183, parking lot, 2222, parking lot, so the reason we're having all these cut-throughs is we, as a city, have not expanded our arteries.

[5:56:36 PM]

So I like the gate idea to say, look, you know, connecting these roads does increase this undesirable cut-through traffic, but we could eliminate that by expanding our arteries. And at that time there could be agreement that we would just open these emergency Gates once we expand the major arteries. So ...

[Applause]

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

>> Gallo: I just have a question. I'm really trying to understand. So this is 140 townhome units.

>> [Off mic]

>> Gallo: What am I reading? Excuse me. So how many single-family units?

>> 120.

>> Gallo: Okay. And so we're talking about maybe twice that in cars. Where is the exit point for this community? I want to just make sure I really understand. We've talked about closing things off. Staff?

>> Mayor Adler: Mr. Guernsey.

>> If you look at the red box, kind of to the top and a little bit to the left, there's a road called Cedar Bend Drive, and you see a large -- kind of a boulevard or large street, they've come in between two tracts. There's Lo Muco. And so the access would be through that little stubout that goes to the Cedar Bend Drive or Scofield Farms Road.

>> Gallo: If I might, that's not the answer to the question. The main entrance to this development is early, which is the stubout at the top of the red box. It's Cedar Bend and Scofield, that's called [inaudible] -- I think we were hearing Old Cedar Lane and it's Cedar Bend.



>> It's cedar bend and Scofield, where it connects.

[5:58:37 PM]

>> Gallo: Okay. So if this group of 250 -- 250 cars or such is going to Parmer, and they can't turn right onto Scofield farms, if that's what I'm understanding that we're talking about -- I'm sorry. I'm very confused with this.

>> That's okay.

>> Mayor Adler: Can you point to the overhead while you're talking?

>> Our maps are oriented in different directions.

>> Gallo: Currently cedar -- they would be able to turn right on Scofield farms from searly.

>> Gallo: And get to Parmer from there, the light at Parmer. So the issues of turning left at the right, the protected light, would all happen.

>> And then

>> Pool: Then there's a left that you can take over to cedar bend and take metric. Can you see metric there?

>> Gallo: Thank you.

>> Mayor Adler: Further discussion from the dais?

>> Kitchen: I'm sorry, can you show us that one more time? That was a little fast.

>> Can you hear me? So this is the subject tract. Approximately 120 homes would take access to searly which then either can turn right towards Scofield farms drive to Parmer, make a left down to cedar bend that could take them over to metric. But all the folks who live in this area would have this one access point.

>> Kitchen: And where's the gate going?

>> The gate would be back over in this area near old cedar lane. You could take bicycle access, pedestrian access to cross in this neighborhood, but not motor vehicle access.

>> Zimmerman:

[6:00:38 PM]

Mr. Guernsey, is it fair to say the contention here is is there going to be direct access to Lamar? I think that's the whole issue. Because once you connect to Lamar that's what creates this monstrous cut-through traffic?

>> I think that's the neighborhood's concern is

[indiscernible] And when the engineer was speaking too I think is the concerns that this neighborhood if you want to go westbound on Parmer lane there's no protected left to get to the middle school or for westbound. There's a protected left certainly as you get out of Scofield farms and they would have that advantage.

>> Mayor Adler: So what is it the road that would be built would be the continuation of old cedar lane, is that correct?

>> Right. There would be a road network that would connect old cedar lane up to searly, which would take you then to Scofield farms or cedar bend. So you would have a point where you could come along and connect this way. And the neighborhood's concern is there there is a way that you could go down old cedar lane and eventually get over to Lamar, which is further on.

>> Mayor Adler: We had seen some drawings earlier that showed an extension of old cedar lane across, but that's not the issue.



>> Here's old cedar lane and the suggestion for layout would be to connect old cedar lane. This is where you would have the gate that would only allow for bicycle and pedestrian access, but would not allow motor vehicle access. And this connection is being discussed to come in this way.

>> Mayor Adler: Is there any further discussion in we have a motion to pass this on second reading only? Any discussion before we vote.

>> Garza: Just be sure what the vote S.

>> Mayor Adler: The vote is to approve the plan from the planning on second reading only, which is to put in the crash gate and to allow pedestrian and bicycle connectivity.

[6:02:42 PM]

Is that correct, Ms. Pool?

>> Pool: Yes.

>> Casar: Something that potentially could be talked about between this reading and the next would be traffic mitigation if there was a street. Mr. Guernsey, am I correct that the street that is being proposed to have a crash gate on it would be built by the developer and is a requirement for the development?

>> Yes. It would be a requirement of the developer to put a this in, and based on the conversation I understand he's quite willing to put in that device. He would have to work that out with the Austin transportation department.

>> Casar: You mean speed mitigation?

>> The device that would prohibit motor vehicle access to across between --

>> Casar: But if there were motor vehicle access either -- once the development is built or at some point if this council decides on the gate issue, since it's not a road that's existing do we have within our sort of zoning power ability to request the narrowness of the road or width of the road or speed mitigation on the road?

>> So Gordon durr, transportation department. The-- yes. The current design with 90-degree turns, those are always slow-down traffic, but they're opportunities to provide cushions or other devices as a part of the original design, and the intent would be to design it so that the target speed is below -- at or below the speed limit.

>> Casar: It sounds to me like there are compromises that still can be struck sort of between second and third reading on this, and I'll make sure to touch base with my colleagues that are interested in that and with the neighbors.

>> Mayor Adler: Okay. Any further discussion in any further discussion in those in favor of approving this on second reading please raise your hand? Those -- I'm sorry?

[6:04:43 PM]

Those in favor of approving this on second reading please raise your hand? I'm?

>> Gallo: I'm getting some counsel from our counsel. Hold on a second.

[Pool].

>> Pool: The vote is on the PC recommendation.

>> Mayor Adler: That's correct. The vote is on the -- the motion is on second reading only to approve this item with the planning commission recommendation included. Those in favor please raise your hand? Those opposed? Renteria, troxclair and Houston voting no. The others voting aye. This moves past second reading. And your vote -- did that also include closing the public hearing? We already did that, I thought. Thank you. Okay. We'll now move on to the next item.



>> Pool: Thank you, everybody. Now item number 29 was pulled by speakers. The clerk should know that fizz Garza vote -- that Ms. Garza voted no on that. We have item number 29, pulled by speakers. Is Mr. Pena here? Is Mr. Price here? Is Mr. Knowle here? Those are the speakers on item number 29.  
>> Houston: When you have time, we can get rid of 51 and 52.

[6:06:48 PM]

>> Mayor Adler: Okay. Let's get rid of 29. We've called for the speakers. Is there a motion to approve item number 29? Ms. Tovo moves? Is there a second. Mr. Renteria. This is to set the public hearing for November 19th. Any debate? Those in favor of setting the hearing please raise your hand? Those opposed? That takes care of number 29. What were your two Numbers?  
>> Houston: 51 and 52. I've talked with the neighborhood and they're okay with both of the items.  
>> Mayor Adler: Ms. Houston moves passage of 51 and 52.  
>> Houston: I already talked.  
>> Mayor Adler: That's okay.  
>> Houston: I would like to move passage of 51 and 52.  
>> Mayor Adler: Seconded by Mr. Zimmerman. Those in favor raise your hand? Those opposed? It's instance on the dais. Unanimous on the dais. And to close the public hearing. We passed it on first reading only, we closed the public hearing on 51 and 52. Okay? You pulled item number 36, staff pulled that.

[6:08:54 PM]

Do you want to address that?

>> Item number 36 is case c-14-2014-0153 for the property at 10301 and 10317 salmon drive. This is to consider third reading of a zoning ordinance for this property. Currently the property zone is interim rural residence or I-rr district zoning and interim sf-2 district zoning single-family, standard lot district zoning. The city council will approve on second reading single-family residence district zoning. There was a condition regarding provision for access between salmon drive and the property north of this tract. The property owner has discussed this with my staff. In fact, I've had discussions as of today and Tuesday regarding this, and offered some compromising language. It may -- at this time the applicant has not signed a covenant that would address providing that connection to the north. And as you look at the drawing that's on the screen, salmon drive is down to the bottom left. The property that would provide -- be provided a connection is to the north or above that lot 5. Currently the property is undeveloped and abuts single-family sf-2 zoning to the east and to the south, and they're developed single-family lots. To the north is a tract that contains one residence on the property. To the left is basically undeveloped.

[6:11:00 PM]

Without having the covenant in hand and the applicant not willing to sign the conditions of second reading have not been met, staff would offer an alternative in this case to zone the interim zoning to permanent, which would become permanent rural residence district and sf-2 district zoning for those interim classifications currently exist. Council could certainly move ahead with that today. I'm sure the applicant would very much like to talk to you, but I know the public hearing is closed, but I know has probably given you some information via email and perhaps spoken to some of your offices. We did offer one revised covenant today after talking to the law department and our transportation representative from the development services department and that would provide for a private-public



driveway that would connect salmon to that property to the north. That would be 25 feet wide. That would only be required to be constructed an easement to be granted at the time of development of this property. As I said, the property is developed with six lots and they can pull building permits today for those six lots. The plat was approved in the later part of the '90's, but in the early '90's wouldn't be compliant with S.O.S. As it sounds right now. The neighboring property owners do not have the right of petition against the zoning case, although they have expressed interest of opposition to the zoning if a connection is not made between the tract to the north and salmon drive. There should be a letter I think that was submitted by the neighborhood to you restating their position that has not changed.

[6:13:07 PM]

If you have questions for me I'm here, transportation staff, they're here. And the property owner, the the applicant is here on their own behalf.

>> Garza: So what's before us today is approving it on third reading?

>> Yes. The case will expire within the week if an action is not taken. Being aware of that, staff, because it's been almost a year since this had come before council, is one of the first I think rezoning cases or zoning cases this council considered last year. But you do have your alternatives are to approve the sf 2 as posted without, as the applicant would like, just changing it from interim to permanent. The interim classification day that would take the lots 1 through 5 and make them permanent zoned sf-2 from an interim classification and the larger lot that's the remainder piece that would become from interim rr to permanent rr. That is an option as well. Or take no action, leave it interim, but staff would recommend some permanent zoning on this property given the time it's been interim.

>> Garza: Thanks. The mayor had to leave, but I can hand it back to mayor pro tem.

>> Tovo: Sure. Did you have a question, councilmember Garza? Councilmember Houston.

>> Houston: Mr. Guernsey, I have a question. I'm completely confused by everything you just said.

[Laughter]. So if you would give us options 1, 2 and 3 again because this is all new.

>> I'll try to keep it very simple.

[6:15:10 PM]

At second reading council requested zoning over the entire property to sf-2, the single-family standard lot zoning with a condition that an access, vehicle access, be provided from salmon drive, which is to the bottom left of your screen, to the property to the north, which is kind of to the top of lot 5 as shown on this exhibit. That would be done through providing a signature on a covenant to provide that connection, and the property owner is not willing to sign at least two versions of the covenant I'm aware of. Might be willing to sign another version, but there would be many conditions attached to that. So your options are -- I see three. One, you could approve the sf-2 zoning without the covenant as it stands. So that is what the applicant I know desires. Option 2 is to convert the existing interim zoning, which there are two on the property, those five lots are interim sf-2, and to the left that larger lot is interim rr. And to convert that to permanent zoning. So simply in the end the interim rr becomes permanent rr and the interim sf-2 because permanent sf-2, but there's no covenant on that case either. And the last option is -- which we would not recommend and law is shaking their head and would be in agreement we would not recommend, is just leaving it interim.

>> Houston: Thank you.

>> Tovo: Councilmember troxclair.

>> Troxclair: This is in my district and it is a little bit confusing.

[6:17:12 PM]



And the last time that we voted on it it was months and months ago.

>> Almost a year.

>> Troxclair: Okay. So what on owe I'm going to try to ask questions to clarify things in my mind and clarify things for the council. What happens if we do not -- looking at this map, what happens if we don't require him to put a road to the north of the property? From what I understand from our previous conversations, the applicant does not want the restrictive covenant requiring him to provide access to the north of the property because this -- the property north of his that we can't really see on this map is undeveloped. So in his mind we're requiring him to build a road to nowhere. And the conflict is I guess city staff always supports connectivity and wants that road in case the property north of his is ever developed, and the neighbors want the road because of -- they don't want traffic for these new homes coming through their streets. So does that help clarify a little bit? Okay. So what happens if we don't require him to put the easement? How many lots would be -- if we don't require him to build the road, how many lots can he build?

>> Well, he could build those lots as part of the subdivision, those lots 1 through 5, but certainly he would have to provide access to 1 through 5 and basically build a driveway from salmon drive all the way up to that lot 5.

>> Troxclair: So the disagreement is just between lot 5 and -- the distance between lot 5 and north of the property? Or it's more right-of-way for the city. If you build a public road versus a private drive it's a bigger easement?

>> I think it would be fair to express the applicant's position as he does not want to enter into a covenant of any kind.

[6:19:20 PM]

He may be willing to extend a driveway from the balance of where the driveway would end at lot 5 to the property to the north, but would rather wait to subdivision to address that. If and when he would ever subdivide because he's not obligated to do any subdivision now.

>> Troxclair: Okay. So why -- are there provisions in the code that would require that he provide vehicular access absent a restrictive covenant requiring it? If we do not require it right now.

>> He would not have to provide an access to that northern property right now because he already has a subdivision plat approved. If he came back in and did let's say a new subdivision plat. Let's say he got the sf-2 zoning and wanted to do a new subdivision, we would look at that, staff would look at that issue again and look at the connection to the north and based on my conversation with transportation staff, would very much probably require that access to be made to the northern property. Not unlike when the oak park subdivision was created, there was a stubout to this tract on salmon drive and also on that larger tract to the north. So these two properties, the one to the north, and this property would have access.

>> Troxclair: I thought we were talking about more than five. If we zone this sf-2 for the entire property, he can build more than five lots, right? More than five homes.

>> He would have to come back and go through the subdivision process again.

>> Troxclair: Okay. So what -- if the existing subdivision -- if the existing plat that's in front of us, we're only talking about five properties, and he would have to come back to council if he wanted to change that, if he wanted to build more than five homes, why are we faced with the restrictive covenant now rather than if he ever comes back to build?

[6:21:32 PM]



It's not a huge property to begin with. I don't know what the most homes that he could ever build on it, but it's probably like 10.

>> He could come back, and I said, develop those five today, wouldn't have to come back to council, wouldn't have to go back through the subdivision process and that would be contrary to what the commission recommended and what was approved on first reading, but it would be only the five homes, maybe a sixth home on that larger lot. There wouldn't be any more than that, but you would not have the connectivity to the north at some point in the future. That option would be gone.

>> Troxclair: So the property to the north that we're talking about is currently undeveloped. There's nothing -- if you built a road now it would be a road to nowhere.

>> There would be a road -- there's a house to the north. I don't believe there's anything else on that property north, but you're correct it would be a road that would just dead-end at that northern property, would not connect back through back to oak park.

>> Troxclair: So do we have any indication about what kind of development would happen on that property?

>> Well, that property is zoned sf-2 and the zoning was approved by council before we had our connectivity ordinance or basically the complete street ordinance. When this property owner came in and filed this zoning case, it was after the city adopted its complete streets policy. So this property owner got caught by a policy that didn't exist on the first case that was just immediately to the north. So some of the issues that came up with this property are not the same as the one before, although these two properties were under one ownership at one time, divided in two by a death of a family member and the heirs, as I understand one son got one half, the other son got the other half and we're only talking about one half today.

>> Troxclair: So is there a scenario where we vote for the restrictive covenant, require this property owner to build the road, and the property to the north gets developed, but that property owner, because his -- he got his plan before complete streets, that property owner would not be required to build a road that connects to this road?

[6:23:47 PM]

>> If the property owner to the north, I guess, maintained the single-family house and did nothing with it, I guess they could continue like that for years and years and years. If they wanted to come back and subdivide the property, to create, you know, I think 12 lots or something that may have been discussed on that property north, they would be facing the same issue of providing a stubout to this property.

>> Troxclair: So you don't envision us -- if that property was subdivided you don't envision a scenario where that property owner would not be required to build a connecting road.

>> If he maintained what he had or are only put much fewer lots he could possibly come in and just develop that property with list lots on the northside and only guide subdivide a small portion of it, then there would never be a connection between those properties.

>> Troxclair: Okay. Are there speakers?

>> No. I think the public hearing is closed in this case.

>> Renteria: Mayor, I'm curious. If this street never gets developed, the person to the north, how would we have access to his property?

>> Thank you. The access to this other property, which is this property here, is via [indiscernible]. When oak park was originally developed, this was I understand one single property and there was a stubout here and a stubout here. This was a pre-s.o.s.

[6:25:49 PM]



Subdivision so it's not -- very likely that this was it going to be developed with single-family homes too, but this was a property owner that did not sell out to the developer of oak park. S.o.s. Came into effect so the number of lots that could be developed was greatly reduced, impervious cover requirements are more severe so you would not get as many lots, but you could probably get more development on this end of the property. As you get down in this area then you have some effects from [indiscernible], so the development would probably be limited to this area.

>> Renteria: Okay.

>> Casar: Mr. Mayor? A question either for Mr. Guernsey and councilmember troxclair, if you've got an opinion on this, I'd be interested in hearing it because I imagine you've been thinking about the case. When you were saying that the -- if the owner of the northern property chooses to subdivide, then you could also require the road and ultimately the connection, if we build the connection out. Are you inclined to think that there is some economic incentive for that owner of that northern property to subdivide so that there are more lots? And I'm not asking you gauge sort of the real estate market there and whether bigger houses, fewer of them sells bigger than smaller ones, but is there some precedent or reasoning that we could reasonably expect that that could well happen?

>> I think there's a likelihood that you will see single-family homes developed on a portion of this property. Again, that property would be subject to S.O.S. 15% impervious cover. But you could certainly get more lots on that property with its size.

>> Casar: So if you wanted several more lots than the city would most likely, if we required the road to go through on this property, then obviously require that there be the full connection to the next one.

>> That is what staff is saying is that there could be a connection between here and here and then perhaps this connection back over.

[6:27:52 PM]

>> Casar: There is some economic incentive for the northern property owner to go through this same process.

>> There may be, except when that happens it could be many, many years or it could be next year that they could file a plat.

>> Casar: My inclination, unless there's some argument otherwise, is that we plan for the future and sometimes the future is soon and sometimes the future is in a long time, if there is indeed an economic incentive that we could get a road to somewhere.

>> Troxclair: Mayor? Okay. Just a couple more questions. And I don't know. I'm really torn about it because I agree. If we knew -- I agree with the idea of connectivity and I understand why the staff is recommending that we build that road, but as you can see, it's really different from the last case that we talked about because this is not a busy -- this is not a cut-through street. It's in the back of a neighborhood with a lot of cul-de-sacs. So it's hard for me to justify telling a property owner that he has to -- so I guess part of the background of the property is that he bought it in the '90's when he could have done a lot more with it, but the city -- as a city has developed over the years and as our environmental standards have increased, the number of things that he could do with this property has significantly decreased. I think at the most I'm pulling Numbers out of my head now, but I think at the most he could put like 12 homes on this lot. And -- is that right?

>> My understanding is he could probably build 11 or 12 homes based on the information that we have on this property. I want to make sure council understands he's not willing to sign the covenant, so there's not a mechanism that I have or council has to --

>> Troxclair: To move forward.

>> To move forward.



[6:29:53 PM]

So the options are really, two, to zone it without the covenant or just change

[indiscernible] To permanent sf-2 and we would not recommend a third option as just leaving it interim.

>> Troxclair: Okay. So what I want to understand is I -- and I may be restating the same question that I asked earlier. If we were to approve this with permanent sf-2 zoning without the restrictive covenant today, if he came back and wanted to build -- and filed a subdivision plan with more than 10 lots, would we then have the opportunity to require him to build a road?

>> We would look at -- if he wanted to add one more lot we would look at the subdivision again and this issue would come up with the plat. If he never filed the subdivision to create more lots in the future, then he could still, I guess, go build the lots that you see on this plan right now.

>> Troxclair: Okay.

>> Without a connection.

>> Troxclair: It would be in his best interest -- he can either build five houses as of right now or he can come back and try to get 10 homes on that lot knowing that he would have to build the road. So I guess I'm not understanding why we don't just pass it now without the restrictive covenant knowing that he can build five homes and then if he comes back to change anything we have -- we will retain the ability to have him put the connection in.

>> That's correct, although there would be no connection to that north property just using the existing subdivision. Which would be limited to that --

>> Troxclair: If he only built those five houses.

>> The additional five.

>> Troxclair: The connectivity that we're talking, I just -- there's not people -- I don't know. When we talk about connectivity in the back of a neighborhood that already is all cul-de-sacs, I don't know. I just think it's a different kind of connectivity than we talked about or that we have talked about in other cases because I'm not sure how many people will be trying to use that connection except for maybe the -- you know, two people that live in the very corner of these properties.

[6:32:06 PM]

>> Right. You would be limited to probably no more than about 50 trips per day at the most from the existing five lots that are there.

>> Troxclair: Okay. And does the neighborhood -- I know the neighbors are wanting the road.

>> That's correct. We received a letter on November 6 I think that was sent to all of your offices directly saying that, quote, we remain steadfast in supporting the consistent and continuous recommendation over the course of this process, and that would be that there would be -- if the zoning is granted it's recommended as conditional zoning, salmon drive to extend and stubbed out to the north edge of the property line at the time of site plan or subdivision. So the neighborhood's position hasn't changed. They still want the connection.

>> Troxclair: And do they know that we're just talking about five houses? Because I understood the original objection was traffic.

>> I would not speak for the neighborhood, but I know that -- I know the owner has been discussing this with the neighborhood. Everyone seems to be in favor of the sf-2 zoning. The only question is that access the neighborhood wants the access to the northern tract and the owner does not and feels that at such time that if he redecides then it would be addressed at that time.

>> Troxclair: Okay.

>> Mayor Adler:

[Inaudible].



>> Zimmerman: I would like to make a motion. I guess somebody needs to make a motion. I would like to make a motion that we approve the sf-2 without the covenant.

>> Mayor Adler: It's been moved that we approve the sf-2 without the covenant. Would that be on third reading? Third reading.

[6:34:06 PM]

Approve sf-2 without the covenant. Is there a second? Ms. Troxclair seconds that. Mr. Zimmerman moves, Ms. Troxclair seconds.

>> Troxclair: And I guess I'm seconding with the assurance to the neighborhood that if more than five houses are built, that I will vote in favor of requiring a connection.

>> If the property owner comes back and files a new subdivision to create new lots, it would not come before the council, it would just go before the commission. But there would be notice and that issue would come up about the connectivity again and would be reviewed at that time of that subdivision.

>> Troxclair: Okay. Thank you.

>> Mayor Adler: Okay. Any further discussion on this? It's been moved and seconded to approve sf-2 on third reading with the -- with no condition. With no conditions. Those in favor please raise your hands? Mr. Zimmerman, Ms. Troxclair, me, Garza, Renteria, pool, Casar, kitchen. Those opposed?

>> Houston: I'm abstaining.

>> Gallo: Gallo.

>> Mayor Adler: Fortunately you both raised your hand. I was counting you twice. Those opposed? The mayor pro tem tovo, and with Ms. Houston abstaining. All right. That gets us through item number 36. Pilot knob, number 37.

[6:36:13 PM]

>> Thank you. Item number 37 is case 20142012-0152, this is up for second reading consideration only. The pilot knob planned unit development for the property located east and southeast of the intersection of east William cannon drive and Mckinney falls parkway, west of south U.S. Highway 183 and F.M. 1625. It is a consideration to zone the property from interim rural residence or Irr district zoning and interim single-family standard lot to planned unit development district zoning. The -- I know council pulled this item. It's a 2,216-acre tract. I know there were some issues that have been raised by council regarding affordable housing. I know that there's been discussions with the applicant and capital metro about a stop on this property. I'm not quite sure what all the questions might be. I'll pause here, if you have any questions of staff. The applicant's agent is here, Mr. Richard Suttle.

>> Mayor Adler: Has the public hearing already been closed on this?

>> Yes, it's my understanding it has.

>> Mayor Adler: Okay. Ms. Garza?

>> Garza: I don't have any questions for you. The applicant and my office have been in several meetings trying to figure out how to get more affordable housing units in this pud, and I believe you're willing to postpone a week because we're not really ready, but I do want to use this opportunity to discuss possibly what directions we can take.

[6:38:15 PM]

And so can you explain some of the options you think are doable at this time?

>> Yes, councilmember Garza. My name is Richard Suttle, I'm here on behalf of the applicant on this. Let me set the table just briefly on where we are and where we're coming from and what we need is some



guidance today from the council. This is a 2200-acre project that's been underway since 2010. It's gone through multiple processes, gone through the state process to get the muds created. It was in the etj and the muds were formed in pursuant to the city's mud policy. There was a consent agreement negotiated and one of the things the city wanted to do is make sure when mud's were created. In the past we had muds that the folks got out there, they got used to a low tax rate, they got used to really fancy parks and when it came time for annexation they really weren't interested in being annexed and we wanted to put a stop to that. So one of the things the city negotiated for in the consent agreement is we would come out of the etj and we would be annexed for limited purposes. What that brought with it was 2200 acres of zoning and unless we wanted to go down and do a thousand zoning cases on this, the city said we want you to do a pud, a planned unit development. Most planned unit developments are or puds that you see as a result of somebody wanting something from the city. This is a pud that the city wanted as a part of the annexation. So we agreed to it, but as part of doing the muds we agreed to the superiority portion of a pud early on and there's language in the consent agreement that says it will be considered as the superiority for the pud. So we roll into the pud and we meet all the tier 1 requirements that you have to get through the threshold to even be considered for a pud and then we met many of the menu items that you select from under tier 2 and that's how we were able to get the muds and that's what we offered in the pud.

[6:40:25 PM]

One of the tier 2 options, which is a voluntary option, is to participate in the affordable housing efforts of the city in some way. So what we did was we negotiated and said we'll do 10% of the rental at 60% mfi for 40 years from the date of this agreement. One of the things we're talking about negotiating out now as part of the pud is to extend that 40 years not from the date of the agreement, but from the date each project is brought online so that if you brought on a project 25 years from now, that 40 years would start then, not now. The second thing we negotiated was that 10% of the homes would be priced and affordable for those making 80% mfi at the point of the first sale. And there was a lot of discussion four years ago about future sales and what about continued affordability, and we never could come up with a way to keep them affordable and not -- because my client's not in the business of being an affordable housing proponent and we didn't have the non-profit or the land trust or anything to keep it going. So that gave a lot of people anxiety so what we did is a third component of our affordability, and that was we would donate or dedicate two percent of the bonds of the mud sales to the affordable housing trust fund over the life of the project with a cap of eight million bucks. Whether we would get to the eight million or not we don't know, but it would be capped at eight million. So we had three things, affordability on the rental, affordability on the home purchase and a contribution. We had on-site and money, which to date is still the best affordable housing deal the city has ever gotten on a private deal, but when we came here, new council and new ideas and new perspectives and four years later the idea is how can we get more? So what we've been having is lots of meetings with the various entities that do affordable housing to see what's changed in the last four years. Lots of meetings with councilmember Garza's office to try to figure out how we either get more affordable units -- we're talking on the magnitude of 10% of this project could be 650 to a thousand affordable or reasonably priced houses.

[6:42:40 PM]

So we're talking about a lot of inventory. So much so that even some of the entities that deal with affordable housing are going wow, that's a lot to chew on, even with the money that's coming in. So we've been wrestling with how do we do it? Four years ago one of the items on the table is if there was the possibility of fee waivers that could be used to enhance affordability, then we would talk about that.



And at that time this deal with the money involved and the on-site, nobody thought that fee waivers were a necessary component to get more. Now we're fast forward four years, we've buyouts going, we have costs of housing have risen faster than mfi, so we're in a different environment. What we wanted to do tonight was start the conversation and just see is there -- are fee waivers on the table because if fee waivers are on the table it gives us more tools to try to get more affordable housing or deeper affordable housing or longevity in affordable housing, whatever the council deems to be important. It's a very complicated formula. I hesitate -- we can't solve it tonight obviously, which is why we agreed to not have a vote tonight, but if we're going down the right path looking at fee waivers, then we'll go down that path. If the council says -- if we get an idea that that's not a good way we have to figure out something else or come do you and say what we have on the table is as good as we can do. The point tonight was to open the conversation, to continue them because my client wants -- wants to do this. He can't sell any more houses below cost than what he's already committed to, but he [indiscernible] And we want to help this area, especially in light of what's gone on in onion creek. So with that there's really no ask other than if anybody has a strong opinion one way or the other on fee waivers -- let me tell you what we're talking in in fee waivers.

[6:44:45 PM]

The big one is the water and wastewater fee. I'm going to use round Numbers. It's just shy of \$8,000 a unit and that is the big one if we were to get fee waivers on that, that opens up a big door on what we can do to keep these houses affordable for a long period of time. The water and wastewater department will probably scream because they're the ones that are taking the big hit on that. They're also one of the biggest beneficiaries of these muds because one of the things that we agreed to some superiority on these muds is the mud is financing and building, oversizing for the water and wastewater utility that they won't have to pay for, but they get to use. Plus we bought out of somebody else's service area to be in Austin's service area and [lapse in audio] On the water and wastewater department. So it's not like they're getting completely taken from, but the biggest fee waiver that makes the biggest difference, that could make the dig biggest difference towards affordable housing would be the water and wastewater fee waiver. So with that I'll sit down. You have a long night ahead of you. The over and under is still 11:00.

>> Mayor Adler: Let me ask a couple of quick questions here tonight by way of also setting out some of the challenges associated with this. The program as it sets up right now puts houses and requires them on first sale only to be at affordable level to someone in that -- no requirement for how long whoever it is that buys it could buy the house and then flip the house.

>> That's correct.

>> Mayor Adler: So conceivably there could be a holding company that buys all the affordable housing at a lower price and immediately puts it back on the market at a higher price. There's nothing built in the system for the rules that are operating.

[6:46:49 PM]

>> Yes.

>> Mayor Adler: What makes it difficult for you or to the property owner to accommodate something other than that is that in order to be able to bond the improvements there's a certain income stream and property value for the taxes that would be charged to generate the income necessary. And in order to do that the assumption has been made that all those properties would be all at their full market value in order to satisfy the revenue generation for the bonds.

>> Yes. Much like what's happening today out at Mueller.



>> Mayor Adler: But it's didn't from Mueller because the model to finance the bond, though, is basised on -- Mueller has a way at least arguably to keep the property value. The market value for tax purposes lower.

>> The only component I was saying much like Mueller is that tcad doesn't seem to recognize an affordable tax that looks like a non-affordable tax. They treat them the same and that's what we did.

>> Mayor Adler: You treated it the same way tcad is treating it, right? And quite frankly if there are no rules about -- I could buy all those lots at the affordable price and then I could turn around tomorrow and sell them all at a market rate.

>> And your political career would be over, but it would be a windfall.

[Laughter].

>> Mayor Adler: 3,000 homes, Diane and I would be off. I don't know where we would go into.

>> You could turn them all into str. People could Uber out to them and they could all have solar.

[Laughter]

>> Mayor Adler: That was the trifecta that as best as I could tell.

>> Zimmerman: That's why they pay Mr. Suttle the big bucks.

[Laughter].

>> Mayor Adler: So what I would really like for us to be able to figure out and the promise of what it is your client was doing here was a willingness to try to figure out what would be a model that we could apply not only on this project, but all subsequent projects to get around this particular nut.

[6:49:01 PM]

We have a property owner who is saying I'll be creative with you. Let's figure this out. He's said I've tried to be creative on my own and talk to people and I can't figure it out. I know that councilmember Renteria's committee is going to be wrestling with this, so part of what I want -- if we're not going to be able to figure this out in time is to put in some parameters that say on how to make the affordability last that will last and put in certain parameters so that your client won't be writing a blank check, but enabling us to figure it out. I would love for us to figure it out over the next week. I would certainly love for us to figure it out before it comes back for third reading in December. And we'll try to put our heads against that too. The other thing that I think was also being considered as councilmember Garza was looking for options that I know her office has discussed is there's a 10-acre tract on the property that is considered for capital -- is reserved for capital metro. There are also some reservations about not just a making that a reservation, but maybe dedicating that to capital metro. That would impact affordability because we would at least know there was a transit station that if the homes were there that if capital metro would extend its services either because it's part of the city or someone has purchased that additional service that might be available as well. Ms. Garza?

>> Garza: I'll just add that we haven't been able to figure out that formula. Another option that Mr. Suttle and I have discussioned is the 10% number on initial sale because essentially that would still be helping out families on that initial sale even if we couldn't keep it affordable forever, at least we could get families in there and hopefully they would stay there and they would already automatically have equity built in when they move in.

[6:51:34 PM]

They can't flip it, they can't do what you were discussing, but -- and I'm also trying to see if there's ways to -- to get families into this area as well. I know we have a lot on the agenda but this is going to be postponed. The conversation is continuing. I'll still committed to more affordable options for this. This is



really the only place we have room to negotiate affordable housing is in these kinds of situations, and I think we need to take advantage of these kinds of situations.

>> Casar: I may have misheard you or Mr. Suttle, but did one of you say we don't have income verifiability on the income of homes.

>> Right now my client would not be responsible for qualifying buyers. That's a whole other department of people that find buyers. We're followed told by housing maybe here that it can take a year sometimes to get people qualified. We're not in that business. We build lots, sell them to builders. So in order to get that program going there needs to be another entity involved. Another entity requires funding which could be funded by fee waivers so that's how we get there.

>> Casar: By on your rental properties that are income -- that are rental restricted, I imagine there is income verification on those just like all the others --

>> That would be varyfide and that's one that each property will have a management company and they can give an audit report to the city.

>> Casar: So the difference is between the purchased ones and the rental ones because the purchased ones don't have a management company.

>> And the purchased ones are different too because we don't want to have one section of affordable housing. We want them interspersed. So you want them to look the same. So you have one builder building them all and it's just -- it gets very complicated.

[6:53:37 PM]

It's the complication we went through four years ago trying to skin this cat when we voluntarily threw it out there as one of the superiorities.

>> Casar: I trust working with councilmember Garza's office and your developer that I look forward to the solutions y'all figure out.

>> Mayor Adler: We're all going to need to be creative. Ms. Houston?

>> Houston: Mayor, I want to caution everyone to make sure that the city had a program where people could buy a house for a dollar and it was supposed to stay there for five years. There's no way to monitor that so the house next door to mine was flipped in two years. And there's just no way to ensure that that happens. And that's the concern is that somehow we need to make sure that people stay in those affordable units for the length of time before they flip them.

>> Mayor Adler: The one question I would have as you're looking at this is if you had the fee waivers how were you going to be able to ensure some of these things.

>> Well, we can actually with the fee waivers, we could actually convey the lot, the property to a land trust and then they could administer it because that's the business they're in. Right now. So like at Robert Mueller the program that you had at Robert Mueller it works well now because you the city owned the land and you could have a second on it, you could have an encumbrance against the title. My client's not in that what we would do with fee waivers through the swapping of dollars, then we could end up buying down those lots and given the right of first refusal to the land trust and they could actually take them down and then they own the land and the affordable house is owned by the person who buys it and agrees to all the restrictions to it.

>> Mayor Adler: Let's pursue that. Maybe there's a way to do that so that future councils can make that election over time as lots come out.

[6:55:41 PM]

>> Sure. One of the things you did on Mueller as well you did the 25% and you did a lot of work there, but then there was also a desire to maybe come up with more. The council back then passed a



resolution saying in addition to what we have, we're going to work towards more and we're going -- and the developer agrees to work on finding something, even though we haven't figured it out yet, we're all going to agree to keep working towards it. That's an option that would allow this developer to get inventory on the ground because we're stuck. Until we get zoning of some sort we can't move. And that gets back to the school that we can't deliver to del valle when we're supposed to.

>> Mayor Adler: I understand. Any further discussion? Is there a motion to approve on second reading?

>> Garza: No, motion to postpone until next week.

>> Mayor Adler: Ms. Garza moves to postpone until next week. Seconded by Mr. Casar. Any further discussion? Those in favor raise your hand? Those opposed? It's unanimous with Ms. Troxclair off the dais. The prior vote we took with the five votes before I was asked to repeat that, it was it nine votes in favor, one vote against, the mayor pro tem, and it was one vote on abstention. So the vote there was 9-1-1. It is now almost -- I'm sorry? The abstention was Ms. Houston. 9-1-1, abstention was Ms. Houston. It is now 7:00. Do we want to take a break until 7:30 and then come back? We're going to take a break until 7:30 recess and then we'll be back.

[7:47:00 PM]

>> Mayor Adler: All right. Let's go ahead. We'll gear this thing back up, mild mild see if we can take care of some things that we might be able to take care of quickly. I think there is an agreement on red bluff. Red bluff is item 79. Is Greg here? Or terry? That would be jerry, huh?

>> Mayor, I think development services staff is walking in the room.

>> Mayor Adler: Well, let's go to number 60. Well, that's development services too.

>> Casar: Mayor?

>> Mayor Adler: Yes.

>> Casar: I had pulled 55 and 56 and I think we can knock that out quickly, along with the Dillard's three cases that I pulled that I think we can knock out so fast.

>> Mayor Adler: Okay. Why don't you handle those then. Which one? 55 and 56?

>> Casar: With 55 and 56, I would vote to make a motion to pass them on first and second reading.

>> Mayor Adler: I'm sorry?

>> Casar: I move to pass 55 and 56 on first and second reading, and close the public hearing.

>> Mayor Adler: Am Casar moves passage of 55 and 56 on first and second reading. This is the Cameron skilled nursing facility.

[7:49:01 PM]

Second?

>> Casar: And to close the public hearing.

>> Mayor Adler: Close the public hearing, moved by Mr. Casar, seconded by Mr. Renteria. Is there any discussion?

>> Casar: And Mr. Mayor, I just -- this is an office zoning and industrial area, but the office zoning will actually be used congregat living. We'll consider making sure that is a safe place for applicants to live, and my understanding the applicant is amenable.

>> Mayor Adler: 55 and 56 closed tore public mean, those in favor, please raise your hand. Those opposed? It's unanimous on the dais with Ms. Pool absent.

>> Casar: And then I'd like to move number 62, close the public hearing and pass it on all three readings.

>> Mayor Adler: Number 62, Mr. Casar moves close the public hearing and pass 62 on all three readings, the Dillard's circle case. Is there a second to that? Mr. Zimmerman? Any discussion on this issue?

>> Houston: I just had a question for councilmember Casar. Why did you pull it?



[Laughter]

>> Casar: If you really want to know, if you really want to know, I can let you know about it later, I just don't want to eat up any more of our time.

>> Houston: Okay. I just was interested.

>> Casar: If you're interested I can talk to you about the brew publics once this thing is opened. It makes it difficult for mixes of uses, so if you want to hear about it, we can talk about it but it seems like this is the best we can do till codenext, the brew public issue on pub issue on codenext.

>> Mayor Adler: It's been moved to close and move for all three readings.

[7:51:08 PM]

Discussion? Raise your hand, unanimous on the dais with Ms. Pool off. Other ones that we think we can handle? Number 60.

>> If we're just postponing it, I don't think we need jerry here.

>> Mayor Adler: This is the townbridge homes rezoning?

>> Yes.

>> Mayor Adler: You're moving to postpone that?

>> Yes.

>> Mayor Adler: To a date certain, to --

>> Next week.

>> Mayor Adler: To next week?

>> Yes.

>> Mayor Adler: Okay. Motion to postpone item number 60 to November 17. Is there a second to that? Ms. Gallo. Any discussion? Those in favor of postponing.

>> 19?

>> Mayor Adler: 11/19? Sorry. 11/19. Moved and seconded to postpone to 11/19. Those in favor, please raise your hand. Those opposed? All in favor again with Ms. Pool off the dais. Anything else that anybody sees that could be moved? Is jerry in yet?

>> Their staff is here for red bluff if you want --

>> Mayor Adler: Red plaintiff, that would be good.

>> Tovo: And 70, mayor, looks like it only has two citizens signed up to speak.

>> Mayor Adler: Okay. Let's do red bluff, which is number 79. 79 has three speakers to speak, but I think we have a settlement that's been entered. Why don't you talk to us about that.

>> Hello. Good evening. I'm donna gilotti with development services department here with red bluff hotel appeal. What's before you is an appeal to the waterfront overlay primary set back, which was a variance to the waterfront overlay primary set back, which was granted by planning commission January 13th. And since that time, the parties have come to an agreement -- have worked together and come to an agreement, which I'm handing out now.

[7:53:14 PM]

>> Mayor Adler: Okay.

>> Council can amend -- can accept the variance as approved by planning commission with an adjusted or with --

>> Mayor Adler: Can we -- can we -- can we approve the appeal and -- in part and deny the appeal in part?

>> Yes. You could approve the -- you could approve the variance with modifications. You could uphold the variance with modifications.



>> Mayor Adler: I understand that. What I'd like to say in the motion is that we approve the appeal in part and deny the appeal in part by approving the variance with modifications.

>> Yes.

>> Mayor Adler: Okay. And I so move. Is there a second to that? Mr. Renteria seconds that. Do we want to talk --

>> Houston: So you're going to have to explain what you're going to talk about, uphold -- I was ready to make a motion to uphold the appeal, with the conditions that have been outlined. But this --

>> Mayor Adler: And the reason they don't want to quite do that is because they're seeking a variance and we have to approve the variance.

>> Houston: Could we divide the question?

>> Mayor Adler: Well, I think the easiest thing to do is say we approve in part and deny in part in order to grant the variance with conditions. And the conditions would be the ones that the staff would lay out now for us. Why don't you see -- if it's not confusing, we'll do it, and if you're confused, then we'll do it differently. Would you please talk about what it means to grant this variance with conditions?

>> Yes. If the council wants to impose the conditions from the -- from the agreement, the conditions would be, in part, two variance conditions, which include impervious cover, of reduction of impervious cover, as described in part 1, limiting the height to 35 feet.

[7:55:26 PM]

Applicant working with the city and Icra authorities to remove invasive species, preserving protected and heritage trees, as described in part 4. Meeting and -- meeting water quality requirements of 25-8, and ensuring the drainage culvert between the subject tract and adjacent property is repaired to city standards.

>> Mayor Adler: Okay. My understanding of this generally is when this matter was before us before, there was the request for buildings to cross over into the [inaudible]

>> Yes. And the new exhibit I handed out shows the buildings not encroaching, but looks like the restaurant deck and pool area are within the primary set back and that does require the primary set back variance.

>> Mayor Adler: So basically the buildings are built back and things that remain are to concrete on the ground, or merely to create on the ground. It's been moved and seconded. Is there any discussion? Ms. Garza?

>> I just want to thank the neighborhood for continuing to work with the developer. These are always the easiest cases to vote on when we have an agreement, so thank you.

>> Mayor Adler: I'd like to thank the neighborhood and property owner. I'd like to urge everybody to figure out how to redirect red bluff road so we can take property and put it to a real use. Any further discussion on this? Those in favor then please raise your hand. Those opposed? It's unanimous on the dais.

[7:57:29 PM]

Thank you.

[Applause]

>> Pool: Scenario.

>> Mayor Adler: Yes, Ms. Pool.

>> Pool: I tried to run back quick like a bunny to get to the dais in time for your vote, so would you please allow the record to reflect my yes vote on items 55, 56, and 62?



>> Mayor Adler: Yes. Would the record please reflect that had Ms. Pool been here, she would have voted aye on those three matters. That takes care of number 78 -- I'm sorry, number 79. Does anybody else have anything that we can pick up quickly? If not, we'll go to item number 43. Shady lane. This is 43 and 44.

>> Mayor, as I was coming up, I was told we can do a postponement, item number 80.

>> Mayor Adler: Okay.

>> If you'd like to entertain that.

>> Mayor Adler: That sounds good.

>> Item number 80 is a postponement by staff to December 10th? By December 10th.

>> Mayor Adler: Okay.

>> If you'd like to entertain that.

>> So moved.

>> Mayor Adler: Is there a motion to move? Ms. Tovo moves to postpone 80 to December 10th. Is there a second? Ms. Gallo. Any discussion? Those in favor of postponement, please raise your hand. Those opposed? It's unanimous on the dais. 80 is postponed. 43 is case npa-2015-0016.01 for property in the shady lane govalle terrace combined land use area.

[7:59:33 PM]

It is to designate the area as mixed land use. The planning commission recommendation was to grant the mixed land use. Related zoning case is item number 44, case c-14-2015-0043, again for the property located at 500 shady lane. It's a zoning change request to general commercial services mixed use, vertical mixed use combined district zoning. The planning commission recommendation was to grant general commercial services, vertical mixed use, combining district zoning. The property itself is approximately 2.79 acres in size. And it's a proposed residential use that would be included on this property. Let's go through the existing land uses on the property are right now office warehouse. To the north is auto sales, restaurant zoning. To the south is cs-co-mn and pnp public zoning and there's general construction sales and services and auto repair. To the east is also auto repair, vehicle storage, some vacant commercial buildings and they're zoned cs veteran v-co-np. And to the west is office warehouse, auto rental and a distribution of oils and lubricant zoned li-co-np, co-np and cs-co-np. It is not supported for the neighborhood plan amendment. The red bluff neighborhood association is opposed.

[8:01:36 PM]

To the neighborhood plan amendment. There is also opposition to the zoning change request on this property. By the same entity. There is a valid petition that's been filed on this property that stands at a little over 33%. The planning commission's recommendation that did recommend the approval did have some conditions on their approval of first that the development on the property be limited to no more than 2,000 vehicle trips per day. That all residential land uses be conditional uses. It also had prohibited adult oriented businesses, hotel-motel, campground, kennels, residential, treatment storage, automotive sales, washing of any type, building maintenances, services, construction sales and services, commercial off street parking, equipment sales, limited warehouse distribution, residential treatment, vehicle storm and laundry services. And vehicle repair services. They did vote to recommend the zoning on a vote of 8-3. Staff did not recommend the zoning change on these properties for concerns with capability with the adjacent land uses. In particular there's a concern that was raised by our fire department, which I believe you have some backup material on. I think I'll pause. I know the applicant is here to make a presentation and there are neighbors here also to speak in response to this Flum change



and zoning change request. Also the fire department staff is here, chief is here to speak to any questions about fire safety as regards this case.

>> Mayor Adler: Thank you. Does anyone want to hear from staff before we move to the folks who have signed up?

[8:03:42 PM]

We have seven -- Ms. Kitchen?

>> Kitchen: We can do it before or after. It doesn't matter when. I was interested in the fire marshal's assessment.

>> Mayor Adler: Let's have applicant lay it out for us and then we'll ask the fire chief or fire department to speak to us. You have five minutes, Ms. Glasgo. You have six minutes. Is Steve Portnoy here? Six minutes.

>> Good evening, mayor. I'll take five minutes and Mr. Portnoy wants to speak so I'll be brief in my presentation. Good evening,.

>> Mayor Adler:, mayor pro tem tovo and distinguished councilmembers. Good evening to you. The subject tract is located at 500 shady lane and is currently zoned limited industrial with a conditional overlay and part of a neighborhood plan. The permitted uses today under the industrial zoning include hotel, motel, professional and medical office and all retail uses that are allowed under regular retail zoning. We can have a brewery, we can have business or trade school. We can have auto repair and sales, we can have warehouse distribution with 18-wheelers, convenience storage, custom manufacturing and other uses. Our request is to down-zone to general commercial services with a vertical mixed use to allow a mixed use development with ground floor retail and residential uses above. With the exception of the adjacent property to the west of our site, the security rounding zoning pattern allows residential and commercial uses. In fact, the subject property and the adjacent landowner are the only L.I. Zoned tracts along the east seventh corridor from airport boulevard to I-35.

[8:05:43 PM]

Of this rendering shows what the project is envisioned to be. It includes what your commercial design standards require. We would have 15-foot sidewalks along seventh street and we would have an area foretrees and benches and that would be an enhancement to this area. The proposed mixed use is a wrapped building, a vertical mixed use building with six levels of enclosed parking garage that will be accessed from shady lane. With vmu zoning if granted, 10% of the total units would be set aside as affordable rental units at 60% median family income as a condition of zoning. The intent is to provide an equal distribution of affordable units throughout one, two and three-bedroom units, including those set aside for the 10 percent median family income. And since this will be rental units, the units will remain affordable for 40 years. That is 4-0. This is a conceptual site that shows the layout of the units. The land use pattern in the area as you can see, the areas that are highlighted in red are tracts that are currently zoned commercial with a mixed use overlay to allow for mixed use. So our tract is red to the south. The adjoining property to the west is the only industrial zoned property and next to his property the big chunk of red is zoned B, which can be built with multi-family uses and everything that is brown shows you that you can have mixed uses. And if you tap into the vmu overlay you're required to provide affordable housing if you use the density bonus. This is the current site where our building is quite alleged and this building used to be a poultry manufacturing company that currently just sits vacant.

[8:07:51 PM]



The previous use was an office-warehouse distribution. This is the future land use map for the planning areas. As you can see the majority of the corridors have mixed use. Our site is L.I. And the adjoining tract is L.I. We're the only industrially purple colored tracts on the future land use map that have that designation. So the designation of V is consistent with the imagine Austin plan which calls this an active corridor that calls for mixed use development, that includes housing, businesses and other uses that support the residences. This is your composite future land use map. This incorporates all the land uses that I've been approved -- future land use maps for the entire city and it shows you what the future land use pattern is for those plans that have been approved. A lot of mixed use areas that are shown on the plan. So what we would like to do here is have a mixed use development. We are willing to provide a building that is set back 50 feet from the adjacent property. We have met with the fire marshal. We've also included as part of our team, we have a former Austin fire department fire marshal, Paul Maldonado, to help us with interfacing with the fire department. We've also --

[buzzer sounds]

>> Mayor Adler: Finish your thoughts.

>> In conclusion, I would like to say that the building code today requires that if your site for development is adjacent to a site with hazmat, hazardous permit, your building is required to set back 30 feet. We are offering to set back 50 feet from the adjacent property line. So our buildings will not be close. We'll be 50 feet away from their property line whereas the building code only requires that the building be set 30 feet away.

[8:09:58 PM]

So that's what I would offer. And thank you very much for your consideration.

>> Mayor Adler: Thank you. Is the fire department staff here?

>> Chris Swenson, Austin fire department.

>> Kitchen: Can you give us your assessment of the situation?

>> Yes, ma'am. The facility to the due west of this site stores between 150 and 200,000 gallons of motor oils and lubricant. For us those are considered a 3-b combustible liquid. That's the least flammable class of combustible liquids, however with that amount you can realize the likelihood of ignition is low, but the consequence of ignition is rather high. If that stuff got going it would be a really bad day for everyone in that general area. What our first response folks use is a emergency response guidebook. When you look up a 3-b combustible liquid in that and what it recommends is if you have a large spill with associated fire, an isolation distance of a thousand feet with a recommended evacuation area of a half mile. To give you some idea of what our folks are using to judge this as a hazard.

>> Kitchen: Okay, thank you.

>> Renteria: Do you know whether there are any other facilities that handles oil around that area, that have --

>> I believe there are some others, but once we determine that this area had such a large quantity that pretty much made up our mind right there that we didn't really need to go out any further to make up our minds as to what our recommendation would be.

[8:12:12 PM]

>> Renteria: Okay. Because I know that there was -- we had one like that what's called Arnold oil that was on sixth and comal, which was next to condos, and they handle a great amount of oil. And I've never heard of any incidents over there.

>> One of our issues with this is that with 3-b combustible liquids we don't track. It's not required that they report that as a hazardous materials permit. So we don't necessarily know about it. This case came



up, we found out they had these quantities so we investigated and sure enough they have a very large quantity of combustible liquids.

>> And basically they're a warehouse where they sell their oil to different --

>> Yes, sir.

>> Renteria: Okay. Thank you.

>> Mayor Adler: Okay. What is your recommendation?

>> Our recommendation is to not allow the rezoning, sir.

>> Mayor Adler: Thank you. Ms. Pool?

>> Pool: Chief Swenson, thank you for being here tonight. I have some concerns about the storage of the hazardous materials and I don't want to minimize them.

>> Yes, ma'am.

>> Pool: Can you talk a little bit about what is really the greatest concern? It's not so much the flammability of them, the consequence of ignition may not be so significant. Is it more the loading and unloading of the materials?

>> Quite often if there was going to be ignition, generally -- when the stuff is just sitting there on the shelf it's not going to combust. It's generally human action, loading, unloading, moving, that kind of thing. A lot of the stuff is stored in 55-gallon barrels, plastic totes, and then also -- which those of course you can forklifts is what you will be using to move that stuff so you have the potential of an issue there. Then also you have some bulk storage there, some very large tanks that you would be loaded and off-loaded.

[8:14:14 PM]

Most likely I believe talking with the ownership there, with tractor-trailer type vehicles. So you've got that liquid moving. It's not just sitting there in the tanks being ignited.

>> Pool: And it's not even how often that happens. It's just that when it does happen there's an increased risk?

>> Exactly.

>> Pool: And it sounds like the setback is 50 feet. That's what miss glasgo had said.

>> For these type of materials, I'm not sure exactly what that's referring to. For these class 3-b liquids I don't know that we have a specific set back. I'd have to check into -- from what the engineering division has told me is there's really no code requirement that would prevent this. That's really where it relies on zoning to prevent something like this from happening.

>> Pool: The point I was going to drive to was not even so much the building that is within 50 feet or whatever distance, but the fact that there would be people on the street between the buildings and whether they're in the building or not, it could -- if there were an explosion, anybody who is within what radius of an explosion that might --

>> With this type of material the possibility of explosion, at least early on, would be rather low. This would be a fire that would develop and get rather large rather quickly, but an explosion would be rather unlikely with this type of material.

>> Pool: Okay. So how fast do you see the fire growing?

>> That would be a -- that would be a hard one for me to really answer. I've seen fires that grow really quick, not here in Austin, but on some of the videos and stuff I've seen. Others that don't grow so fast. Again, it's the size. If it gets to -- once it gets to a certain size we're not going to easily be able to put it out.

[8:16:15 PM]



It will be an extended operation that would definitely require evacuation of that area. The folks that would be in mixed use residential facility right next door all would have to be evacuated and hopefully we would have time to evacuate all those folks.

>> Pool: So the difference between what is currently there and what is proposed to be there would be an increase in the number of people that might be affected?

>> Exactly. There would be a lot of folks that would need to be evacuated. And they would be of course with something like this you have a lot of radian heat develop and a lot of smoke development.

>> Pool: Thank you.

>> Renteria: And you do realize that left less than a block away there's Allen elementary school there to the north.

>> Yes, sir.

>> Renteria: So if something like that, then you would have to evacuate the school and everything else around there.

>> Yes, sir.

>> Renteria: It sounds like a very dangerous situation that we're facing here with an industrial area so close to our elementary school. We're always wondering how come these kind of industrial areas was allowed so close to our students there in our neighborhood, but I guess being east Austin, that's just -- was a common thing that happened in the past where we were allowed to build right next to an industrial area.

>> And again, that's why we're opposed now in this case to put a residential development that close to a hazardous material site like this.

>> Mayor Adler: Ms. Houston?

>> Houston: You may not know this, but what was on that site before this development was proposed? Because we've got a lot of landfills and brownfills in east Austin and I'm just wondering has there been some survey to determine if this was a brownfill?

>> I do not know, ma'am. I could look into it and see. I don't know if I have access to that information, but if that's important to you I will do my best to come back with some information for you.

[8:18:15 PM]

>> Renteria: I can tell you it was -- it was the same company, they just changed their name. They used to be called texaco, but they changed their name and they've always been there. And I never knew of an accident in all this time. I used to go down there and service that area when I was working for IBM in the '80's, and that was a very well kept place. Thank you, councilmember Renteria. So my question is has all that land been remediated because of the spills that have happened on there for years now? And so I think we have a department maybe that talks about brown fields or does some -- Mr. Guernsey, can you help me figure this one out?

>> Well, councilmember, I don't know the status of any spills on the property next door to this property.

>> I'm talking about on this property.

>> On this property, perhaps the property owner knows if they've done an environmental study to tell the status of the property.

>> So the subject property, 500 shady lane. My name is Steve Portnoy, I represent the property owner at shady lane, was the east poultry site. We have a phase one report. We had no evidence of any petroleum contamination on our property. I can say a lot of chickens lost their lives there, but other than that --

[laughter]. Yeah.

>> Mayor Adler: Okay, thank you. Ms. Gallo?



>> Gallo: That's good, thank you. And I appreciate the fire marshal being here so late at night and a staying to answer our questions. I'm trying to understand the risk of this property of the neighbor of this property as compared to risk of service stations that we have in neighborhoods that are very close to residential and very close to schools and not only have oil and lubricant, but also gasoline.

[8:20:32 PM]

So how do you view those? And I understand they're smaller scale, but it seems like those are maybe even more at risk because of the explosive nature of what's there.

>> You have a good point there, but also those are underground storage, which is generally much safer than above ground storage. You have underground storage where if you run over one of the pumps or something they automatically shut off so they can't deliver to deliver product. There's some safety measures in place like that. But if you were to ask me if you should be putting a house right next to a gas station I would say that's probably not the wisest. But again, it comes back down to zoning and tolerance of risk.

>> Gallo: So if there was a multi-family property being proposed right next to a service station would you still have the same recommendation?

>> I think I would really have to see what size service station. There would be a whole lot of other questions I would like to see. It's really hard to be given the what-ifs without all of the details behind it. I would be very hesitant to say yes or no.

>> Gallo: Okay, thank you.

>> Mayor Adler: Okay. We have some speakers too so it's important that we want to get to them. Ms. Tovo?

>> Tovo: I just want to be clear about your recommendation. So you're recommending against this in part because while the danger of explosion is not high, were those liquids to become flammable, it would be a very large fire and a very rapidly moving one.

>> Possibly rapidly moving, but definitely could become a very large fire and could be very smokey, very noxious smoke develop.

>> Tovo: Are there ways that the developer could construct -- could the developer construct the units in a way that would mitigate that impact in some form or fashion?

>> What that would really require would be a very in-depth engineering analysis that would take into consideration radiant heat and also smoke development.

[8:22:38 PM]

That's outside of my engineering section to do. That's some special skills that are required to do that type of analysis and also the type of software and tools that are required to do that type of analysis. So so without that type of analysis I really can't answer that question intelligently.

>> Tovo: I'm not sure if you have this information or the staff might, but I would be interested to know if in very recent history will had been any rezonings of this sort where residential -- am I doing that? Possibly? Where residential was -- where a tract was rezoned to allow for a residential use directly next to light industrial where it was this kind of a set of concerns? I know we've done that a couple of times in the recent past but we didn't have a recommendation from our fire department not to allow the rezoning. So this is an unusual circumstance.

>> This is one of those that I was just aware of, kind of through an email string that I kind of saw, got interested in it and looked into it and determined that yes, this was not something that we really wanted to occur.

>> Tovo: Okay. Thank you.



>> Because again I don't really know what the history is of the zoning. It's very rare for us to get involved in zoning because quite often we don't even know it's occurring.

>> Tovo: Got it, thank you. I think where there is kind of concern I certainly want you involved so thank you for being here. And Mr. Guernsey, can you clarify too, I'm confused about whether texaco -- I heard a reference to texaco being the former owner, but that's on the adjacent tract, not on tract that's being proposed for rezoning, is that right?

>> That's my understanding.

>> Tovo: Okay. So the tract that's being proposed for rezoning is -- maybe you can illuminate this when you speak.

>> [Inaudible].

>> Tovo: I think you're both signed up. The tract that we're considering rezoning am was used as poultry.

[8:24:41 PM]

>> Correct.

>> Slaughterhouse or whatever you call it. Thank you.

>> Mayor Adler: Ms. Pool?

>> Pool: Real quick question, Mr. Guernsey. What is staff's recommendation on this, to approve or not to approved?

>> Not to approve.

>> Pool: And that is because of the location aproximate to the development?

>> Mayor Adler: You don't want to put this next to a dangerous place, on the other hand we have an area of town that is moving to residential. If this wasn't the appropriate place to have industrial use in the future, how does a part of town transition from industrial to residential if you can't put residential there because it's close to the industrial? If we don't approve this then with the industrial zoning we would be encouraging someone to sell it for industrial use and have someone build a newer, longer life industrial facility there. So from a planning -- how do you move in this instance if there was the desire to do so, how do you move from industrial to residential?

>> Well, first the neighborhood plan actually identified this as industrial as well as the tract next door, as Ms. Glasgo pointed out, but generally there are two things that happen through time. The city has down zoned much of east Austin back in the 1990's and 2000's from industrial to the commercial mixed use that you see over a larger area. And so there are uses that may become what's called nonconforming that if the use were to cease and to change through time, then they would not be able to reopen a similar use.

[8:26:43 PM]

Some uses -- there's one particular use of a chemical company and it's really close to an elementary school. It's not zoned for that industrial use any longer, but is a grandfathered use. So until those uses cease, which may cease because land value has gone up, that use has kind of come to its end. The building has kind of ended its life expectancy for the usefulness of the structure. Those are things that come back in to be reevaluated. But it's difficult to just end the use so either by rezoning and doing a plan that says it will be something in the future or by economics that the value of that structure has ended and the property owner sees more value of development with a more intensive use of a different types of those are two that may happen.

>> Mayor Adler: Those are the reasons why it might happen, but what I'm looking for is from a planning perspective what would your recommendation be to do in this case if the council's desire was to move



this area from industrial to residential, recognizing that we have this facility next to this facility. If this was a desire of council what would you recommend we do?

>> Probably looking at the plan and redoing the plan for this portion of the area to remove the industrial uses and down-zone the properties from industrial to uses more compatible to the plan and to the adjacent properties. That won't end that use because of the right of the property owner, but in the long run that will cause that change probably to happen in the future.

>> Mayor Adler: So would we as part of this would we initiate that kind of area plan for all the stakeholders to look at in? What would we do on the dais?

[8:28:44 PM]

>> You would be looking at a plan amendment for the area to remove the industrial zoning, industrial uses on the future land use map and down-zoning properties in those areas. So what Jerry is saying it could be initiated by the planning commission or by the city council through the resolution directing the city manager to pursue a change in the neighborhood plan and initiate rezoning of these properties in the area.

>> Mayor Adler: Before we go to public testimony, anyone have any comment? Mr. Casar?

>> Casar: Mr. Mayor --

>> Mayor Adler: You need to press your mic.

>> Casar: She's paying me back, for those of you who were here 12 hours ago. It seems to me that the challenge is of course if we don't turn this into -- right now the focus is on the rezoning of the residents that could potentially be next door to industrial, but at the same time if this stays industrial and hazardous materials are put here, by not making the change we won't have a vote, but we will be putting the residents nearby the newly industrial tract, if it is -- if hazardous materials are stored there in danger without a vote and without it coming before council. So I think that is a difficulty because I totally respect you on -- during this zoning vote your recommendation that we not put the future residents on the poultry tract in danger, but if the poultry tract becomes a hazardous material tract we're putting someone else in danger without a vote. So I don't think it works just one way or the other. And so I'm really torn up about it and I would urge that maybe we take some time to think this one through.

>> It's how we get from here to there. I mean, I hate to say no to have this turn into an ever-more industrial tract as you were just describing, but I don't know how that transition works until you start approving residential or to have a process where the stakeholders in that area at least get to get together and argue through that, including the adjacent properties.

[8:31:00 PM]

I just don't know.

>> Renteria: Mayor, and would it help if we were to postpone it so we could get the information or maybe vote it on first reading so that they can go -- so he can get more information to bring to us about how hazardous it really would be and how -- the distance and what kind of -- if it was to be -- in a fire or something like that that they could build something that could be resistant to something like the smoke and the if fire.

>> Mayor Adler: That would help for me as part of the larger conversation. Part of this is if that were to transition as part of the end plan that would be staff's recommendation for what we did on this in order to best facilitate that end? Ms. Pool and then Mr. Zimmerman and then Ms. Houston?

>> Pool: I don't know if this is a legal question or a planning question, but is it possible in the interim, depending on if we vote on first, to have -- engage a conversation about moving the hazardous materials at least to the other side of the site where -- the neighboring property? Because it looks like the



hazardous materials is right along the property line very close to 500 shady lane. If we were able to move that to a different part of that site, then it wouldn't be as much of a hazard, the impacts may be a little less, looking for a way to, I guess if possible -- and safer.

>> Councilmember, we could certainly talk with the property owner and see if it's a possibility. I'm not sure what's on the opposite side of their property and how that property owner might feel. We have had situations where we've introduced residential uses in older industrial areas and then established setbacks as partially suggested I think by the applicant on the property to move them further away from the hazardous activity or hazardous zoning.

[8:33:16 PM]

I don't know what mechanisms, if there are physical mechanisms that could be used to lessen the danger. We could certainly talk with the fire department and look at more research, but we've had cases on typically much larger sites and older industrial parks like Lockheed Martin where we've had setbacks as far as 100 or 200 feet depending on the hazardous materials that existed on the adjacent property.

>> Pool: To be clear, the property is not the subject property. It's not 500 Shady Lane, but it's the adjacent property that actually houses the hazardous materials? Or the setbacks were placed on the residential property because the other property is basically not asking for any zoning change, not asking anything for the city, but to allow the residence to go on to allow a buffer on their residential property away from the industrial or hazardous use.

>> Pool: Where I'm trying to find the sweet spot is between the request for denial from staff and then the support to turn that part of town into a more friendly housing area, which makes sense to me, and how you do that, while we're recognizing the real safety concerns -- and safety comes in a lot of different packages. In this case it happens to be the flammable materials that are adjacent and the ability -- the noxious smoke that would come from them should they ignite. In other areas it's cut-through traffic through a residential neighborhood that's also a safety concern. So I'm trying to find the pathway among all of these that would have some concurrence and some synchronicity. And I'm right now coming down on the side of safety for the people who may not yet live there, which in this case would be staff's position. In a previous case it would be in opposition to a staff position.

[8:35:24 PM]

As far as policy direction I'm looking paramount at the safety of the people who may live nearby.

>> Mayor Adler: Mr. Zimmerman.

>> Zimmerman: Thank you, Mr. Mayor. An excellent question and I think about this a lot. I think practically speaking the market, which defines the highest and best use, is eventually going to convince all the property owners in this area that they could make a lot more money on the property by moving, relocating themselves under their own free will and working out some deal that the entire area gets converted at this time. That's what I see happening at this property. It's impossible to tell when that would happen, but that's how I see it working. Everyone agrees that they want to relocate the industrial use and let the market redefine its highest and best use for residential. It might be years or decades, but it's going to happen.

>> Mayor Adler: Ms. Houston?

>> Houston: I have a quick couple of things to say. It's really interesting to sit here as a member of council and listen to the conversations because most of east Austin was zoned industrial and commercial and only when the people in the city council, prior city councils decided they needed a friendly housing area did we start not having those zoning categories there so that people could move in. So here again tonight we're thinking about how do we change the zoning so new people can come



into an area, which is what we've done to most of east Austin because that's what the city zoned us in the past. I just want us to listen to what we're saying to each other is because this friendly neighborhood we still have people living there and they've been living there for decades, but now we want a new set of people we want to move into that neighborhood so we want to think about how do we change the zoning so that new group of people can have a larger residential area. Mind you, with no amenities whatsoever. No grocery store, no cleaners, no -- fancy restaurants, but still lacking.

[8:37:32 PM]

No jobs. We're still lacking the amenities, but we're willing to put people into those areas although before nobody was concerned about it. So I just wanted to make sure we were listening to ourselves. [Applause].

>> Mayor Adler: Thank you. You can both sit down and I'll call some speakers. The next speaker we'll have is Pam Adair.

>> Hello. I'm Ford Smith and I actually own the business next to the applicant, allied sales company. Hopefully I haven't taken too many arrows. In the powerpoint presentation kind of went out the window, but I would like to put up the first page because I think there's a little bit of a misconception about this area. First of all a little bit about allied sales company. It was started in 1948 and my family has owned it since 1959. So allied sales has been in the area for 65 years. My family has owned it for 55 years. I've owned it for a good 10 years now. We're in a pretty homogeneous commercial/light industrial area. If you look at this map, the green is it no residential uses today. And the dots are the sites that hold hazardous material permits. What you see in red is kind of a natural boundary that we have around this commercial district seventh street to the north, shady to the east, Cesar Chavez to the south and Springdale. And so everything within that is commercial, light industrial. And just a quick count, there's at least 20-plus businesses within that area today.

[8:39:37 PM]

Most of the businesses has been in the area for 30 years. We've been able to operate in the area and very homogeneously with the businesses around us in the residential areas because the buffers that we have around us. You have the red bluff neighborhood that's obviously to the south of red bluff street and then you have to go to Gonzalez, all the way across seventh to Gonzalez to where you get back into residential. The area is really classified by low density commercial wholesale distribution businesses such as ours. I think what's a little bit unique about ours is the class 3-b materials that we happen to have, but when you look to the west of us the largest landowner is longhorn international. They own 11 and a half acres. Well, they have a V designation, but during the planning commission hearing the owner of that business, Dewayne, who owns longhorn, testified they have no plans to move in the foreseeable future, but they like the area, that it works very, very well for their business. And the same way with the businesses along fifth street. So there's other business owners in that or opposed to it. And what we're opposed to, we're not opposed to down-zoning it to commercial. We're not opposed to the mixed use. What we're opposed to is the residential component because what we feel would happen is if you did zone it residential, it would kind of pierce that natural boundary that we have around us that works very, very well with the existing businesses in that area and the single-family neighborhood around us. So we feel like there's lots of other areas not very far away from us that is a lot more appropriate for this type of development than where you have residential where you pierce this natural buffer we have. [Buzzer sounds] And I'm happy to answer any questions that you might have.

[8:41:40 PM]



>> Mayor Adler: Any questions for Mr. Smith? Thank you, sir.

>> Okay.

>> Mayor Adler: The next speaker, Pam?

>> [Inaudible].

>> Mayor Adler: Okay. Theresa bear.

>> Mayor, council, my name is Therese bear. Most of you know I am a professional engineer and as such I'm duty bound to the health, safety and welfare of the general public. I've been a consultant to allied sales for about 20 years. However, I'm here tonight on my own accord because I feel so strongly about this zoning case. I oppose rezoning the adjacent property to high density residential. First, introducing high density residential into this busy commercial light industrial sector is not beneficial to families. Second that this residential development had received federal grant dollars it would not have passed the neepa environmental assessment because it has not passed the litmus test for environmental socioeconomic justice. Third, it's simply not compatible with the surrounding development.

[8:43:43 PM]

Which goes so far against the grain of Austin's ethos on compatibility of development that I can't begin to go into it. Before I left my office this afternoon I asked our senior certified industrial hygienist if he had an opinion on rezoning the subject tract to high density residential. He said, and I quote, why would anybody want to do that? That is just plain dumb. I also asked our senior certified hazardous materials manager the same question. She said, and I quote, that would be a really stupid thing to do. So roadway decided not to come here to explain class 3 liquids to you. I decided to come here instead to reason with your sense of good judgment. At a similar zoning case in the city of south lake where I worked on a similar project a Dallas firefighter testified and made the public comment that residential was not the best use and strongly opposed that zoning change. He asked his city council to use common sense on the case, saying that if they had never been to a facility that distributes petroleum products that lapse

[indiscernible]. I am bringing you a few photographs. This is allied sales. It holds about 150,000 gallons of product.

[Buzzer sounds]

>> Mayor Adler: That was your three minutes. Do you want to finish your thoughts?

>> Oh. I would like to say that I know you wouldn't vote to change residential zoning in a residential neighborhood to commercial light industrial with hazardous materials so why would you even consider voting to change a CLI zoning with hazardous materials to residential?

[8:45:58 PM]

Even Austin is not that hard up for developable land that we need to behave like Houston. I don't want this council to go down in memory as the council who voted to put unsuspecting residents in a housing next to a petroleum distribution facility.

>> Mayor Adler: Thank you. Next speaker would be Steve Portnoy.

>> Pam Adair.

>> Mayor Adler: I'm going back and forth and I skipped over Steve a second ago. I want to give Steve a chance to -- unless you want to conclude.

>> [Inaudible].

>> Pam, why don't you come back up.

[Laughter]



>> Good evening, council, my name is Pam and I'm here on behalf of mighty distributing and allied. You've already heard from Mr. Smith who he told you his family has been there for 70 years. And for 70 years they have operated as a good neighbor with the neighborhood. They've operated in synergy with that area. There have not been problems at that site that have raised concerns. And at this point it is not right for someone to be able to come in and rezone their property and detrimentally impact the property next to them when they've done nothing that justifies it. You know, the imagine Austin plan as you well know says that adjacent land uses need to be compatible and not adversely affecting the existing businesses and neighborhoods and so forth. And this defined district, as Mr. Smith showed you, is very tight and it's connected to the major roadways of 183. So the trucks that come in and out of these different industrial, commercial industrial businesses there, can easily get on major roadways to distribute their product. The proposed rezoning and concept plan that you have in front of you which allows 250 high density units and 2,000 trips a day it does not make sense for this particular area.

[8:48:07 PM]

You have daily trucks coming in and out and that kind of traffic could create quite an issue there. That would be incompatible with the existing businesses. As Mr. Smith testified, these businesses intend to stay. They may not all be zoned L.I. Currently, but they do not have any intent on leaving. The two neighborhood groups that are impacted, the red bluff and govalle, their contact teams are both against this rezoning. You heard that the city is against it. We're against it. And other adjacent business owners are against it as well. And it's just not practical for the area. One other point I'd like to make is this might be different if it was an actual situation where you had someone who is coming in and designing the product. This is one where there's just a general concept plan, but it's not really what's going to be built. And it's not a situation where you have a site plan going through where you can really see what's going to be on the property. And I think it would be more appropriate to consider a neighborhood plan change and a zoning change when you have an actual site plan and a real project to connect it to. So I think that's a really important consideration not only for us, but for the neighborhoods. And mayor, to answer your question about how do you handle the transition, you know, by rezoning an area such as 500 shady lane to a commercial use, an office use, something like that, that allows the transition to begin, but doesn't just immediately throw high density residential right into the middle of it that creates conflict. So there's definitely ways to do it, it's just not with high density residential.

>> Mayor Adler: Thank you. Danielle -- Daniel Yanez. Take your time.

>> Thank you. As with the previous case I'm wearing two hats. I'm the chair of red bluff neighborhood association which this project is in and we are part of the govalle Johnston terrace neighborhood contact team of which I'm the coordinator.

[8:50:10 PM]

I'm going to let you know about the neighborhood position and the contact team position, but I can answer all of your questions about the history and the zoning and all that if I go past the three minutes I would hope you would ask me questions about it. The reason that -- first of all, the contact team facilitated this discussion by sponsoring the applicant out of cycle, just so you know that we're trying to work with everybody and trying to be fair with everyone. The reason that the neighborhoods are objecting to the housing is not because we don't want housing. We want housing. But we don't want these huge exploitive rental developments. We recommended that they do -- if they were going to do housing there they would do less than 70 units and that they would be a broader spectrum of economics besides just 10% affordability. And when you talk about affordability, I would like to see a number, a number -- because imagine Austin is talking about the missing middle. I'd like to see a



number. It's too vague to say affordable housing. Now, the other reason that we were not necessarily opposed to having residential there, but we wanted to see something more than just a big blocky building like south Lamar. We don't want Cesar Chavez and this area to turn into south Lamar over there by -- by your nodding you know what I'm talking about. Having said that I want you to know that your neighborhood contact team and our neighborhood plan, which was adopted in 2003, down-zoned over 600 light industrial and industrial properties. This is not one of them in the same way that there is an industrial park on Springdale at airport, this is where, for example, the breweries are there, the rock climbing place is happening. So I also want to make sure that you know that we as the contact team have identified 90-plus acres of city-owned sf-3 land.

[8:52:17 PM]

Mayor, this is where we want the growth to go. It is not near the industrial sites. It is in parcels of six acres, four acres, 44 acres on boggy creek, above boggy creek on the northern part of our neighborhood. So this is why the contact team in the neighborhood, we're opposed to -- to apply residential to here. And just like the previous speaker said, yes, we are transitioning and this is happening. And councilmember Renteria, to address your point about Allen elementary, this is east Austin. This is where black and brown people used to live. Nobody had a problem putting a school next to industrial sites.

[Buzzer sounds] Now in 2016 when more white people are moving in, now we want to clear it all out. I just want to make that point that it's very important that we understand that. And as you plan -- as you talk about what's going to happen here, I hope that you include us that live right there in this equation. Because I hear you all saying oh, well, we should do this, we should do that. And what if and what if? What if's and what should is -- pales in comparison to what actually is. I hope that you include us immediate neighbors, the contact team and the neighborhood association in any of these discussions. So that is why we're opposed to the housing, not because we don't want housing, but because there's 90 plus acres elsewhere in govalle, Johnston terrace that are more appropriate for residential.

>> Mayor Adler: Daniel, thank you.

>> I'd be happy to answer any questions.

>> Mayor Adler: Any questions? Thank you. Steve Portnoy. You can close us up.

>> I feel like a surgeon. I feel like a surgeon, I'm going to close it up. Mayor and councilmembers, please consider that the building on the subject property is well beyond its economic life.

[8:54:20 PM]

It's going to come down and it's going to come down soon. It can redevelop under the current L.I. Zoning, under multiple uses, a hotel is allowed there, an office building is allowed there. So something's going to happen there and what we decide now related to this zoning is going to be in place there for when we've all left the scene. It will be there for decades and decades. So we kind of need to take the longview here. There's a one-man valid petition, the adjacent owner to our west. He operates his industrial business under a zoning use that was granted in a different era. It's not the highest and best use or the most appropriate use for this land from a city planning perspective. The imagine Austin plan agrees with that. It's the only L.I. Zoned use on the entire east seventh street corridor. People vote with their feet and they want to live, work and play here. This adjacent use, the 500 shady lane is no longer appropriate. The proposed zoning change will bring on-site affordable housing, 10% of the units across the full range of unit types, at 60% mfi. If we're going to bring affordable housing into the picture, this is the vehicle to do it. Additionally we're offering to have a five percent market rate discount for Austin public servants, E.M.S. And aid teachers, but city councilmembers are not eligible.



[Laughter]. This down-zoning request from L.I. To cs-mu-v is worthy of the council's support. It will energize the appropriate mixed use development on the east seventh street corridor. It's a core transit corridor that's supposed to be an active corridor based on the imagine Austin plan. It will provide affordable housing. It's going to provide street level retail fronting east seventh street.

[8:56:23 PM]

Like I said, it's worthy of your support and this decision will affect future generations in this neighborhood along east seventh, east fifth, Cesar Chavez. An adjacent use next to the gentleman with the petroleum business is Justine's restaurant, a nice French restaurant. It shares a property line with this fellow of. So he's the anomaly and we kind of need to take the long view. That's what zoning is and I really appreciate the consideration.

>> Mayor Adler: Thank you. Do you want to conclude?

>> Thank you, mayor. I'll do the wrap-up for you. Thank you again. I handed a map to you that shows you the site and the areas that are highlighted in red. We've also indicated the 15 sites that the Austin fire department identified that have hazmat sites. The reason I want you to think about this map is obviously east Austin having had the history of having industrial zoning, to the northwest we have applied materials all the way to Samsung you have industrial using next to residential uses. So this is not going to be unique to just our site. All the 15 sites you see there, in fact the hotel that you just approved a little while ago, is south of several sites. All the stars you see there are sites with hazmat permits. So I know we're here tonight, we're getting all the attention so this is hopefully going to begin the dialogue. Mayor, you asked a question of Mr. Guernsey and the fire marshal about what can be done to help end the transition should council want to explore that? The building code and the fire code have exceptions that can accommodate buildings in situations like this.

[8:58:24 PM]

For example, in the hill country where we have fires, the fire department I know has been to our neighborhood where they give us fire wise ideas to prevent should there be a brush fire out in the hill country. In the hill country steiner ranch, 620 you don't have enough fire flow. The way the fire department and building department approve buildings today, I just had one approved this year. We could not demonstrate that the site -- it does not have enough fire flow and therefore the fire department and the building official were able to require certain materials of the building and the building had to have sprinkler systems. So there are requirements in the building code and the fire code that can be used to mitigate those factors, and we're glad to explore those because they are there. They're used everyday. They're not getting the scrutiny we're getting because we're here for zoning but those projects have to apply with some -- comply with some setbacks and building codes. What I'm asking is for you to keep an open mind and ask yourselves if -- if the fire department was able to identify 15 sites within a thousand feet of our site, then how many more sites are there between airport and I-35 all the way to -- as far as you can go with sites that previously or historically have hazmat permits that are next to residential homes? And then secondly I would like to finish up by saying if we don't get -- change the zoning, we can have a five-story office building with 300 plus employees. They too would have to be a consideration. So I ask that we keep an open mind and we hope we can get first reading and continue to explore ways to address this. Thank you so much.

>> Mayor Adler: Okay. We're back up now to the -- to the dais.

[9:00:30 PM]



Mr. Renteria.

>> Renteria: I would like to recommend that we just vote on it on first reading to see if we could get some more information about, you know -- if there are designs out there that could make it where -- the way they could, you know, design their building in materials. There was a lot of questions that were asked through the fire marshal that we weren't able to get the answer because he didn't know, and maybe if we just delay this long enough to get some information on first reading we can just do that and bring it back. And see if there's a solution. I really feel like we have an opportunity now to change the zoning there where -- you know, we're not going to get these opportunities very often. I remember once on television there was a big roofing company there that -- you know, was a big white house and up they had the -- warehouse and the residents right across the street had the same concern and they did download them but they didn't give them an option to develop that, the property the way they would want to, to move that hazardous industrial material that they had there. And it's still there because, you know, we weren't able to sit down and work it out. Residents have lived there all their life right across this big industrial noisy area, and they never had the opportunity for the -- to -- to move this company and they refused because they -- they didn't sit down and try to work it out. And that's what's gonna happen to that area, that -- if we don't sit down and try to work out a solution, we're going to have an industrial area there forever, and we're never going to be able to develop any of that property around that area because we're going to be facing the same, you know, seventh street is in that particular area.

[9:02:35 PM]

No matter where you go from Springdale to shady lane, you're not going to be able to put anything there because you're going to be facing this hazardous industrial material, and they're always going to have an ability to say, no, we're going to keep it there. But if residents in that area want to keep industrial, you know, I'm not -- I'm not going to be the one that's going to be fighting them, but if that's what they want, you know, then, you know, I'm going to support this. But if that's what they really want, if they want industrial, if they want this petroleum stuff there in their neighborhood there like Daniel said, which I doubt because he mentioned the fact he wanted to see 70 units put in there, which basically just tells me that it wasn't because the housing that he was opposing. He was opposing it because he didn't like the design of the building. But, you know, that's -- that's what we're going to be facing. You know, I worked all my life there in east Austin to try to get these industrial areas, you know, to move. We did [indiscernible] Oil, he finally came into the reality that he comake a lot more money, happened to stay there and moved to another area where it's easier and you have an industrial area where it's designated industrial. But I would recommend that we just fast on first reading and see what we can work out. Nu.

>> Zimmerman: Mr. Mayor.

>> Mayor Adler: Yes.

>> Zimmerman: Is it in order to make a motion to close the hearing?

>> Mayor Adler: It would be.

>> Zimmerman: I'd like to make that motion.

>> Mayor Adler: Mr. Zimmerman moves for closing the hearing. Is there a second? Mr. Renteria. Any discussion? Those in favor of closing the hearing please raise your hand. Those opposed? It's unanimous. Hearing is closed. Someone want to make a motion? Mr. Renteria?

>> Renteria: I move we fast on first reading.

>> Mayor Adler: Mr. Renteria moves passing this on first reading.

[9:04:35 PM]



Is there a second to that? Mr. Casar seconds.

>> Casar: Councilmember troxclair was trying to second it.

>> Mayor Adler: I couldn't see her. She's, like, three people behind me. So it's been moved and seconded. Ms. Tovo.

>> Tovo: Mayor, I have another question for our fire marshal. Ms. Glasgow distributed a map and talked about the other outlets or other places in the area that have -- that have hazardous materials and I was just looking through our backup and rereading some of the emails that -- correspondence that you had with the planning staff, and I think you were aware of those other ones as well. In fact I think you supplied the information but you said this one was of particular concern so I wonder if you could distinguish for us was it the proximity of this site to the proposed development? Was it the quantity? Was it both?

>> The quantity and the proximity, mainly. There's one other site. Again, what we had is reportable quantities. I don't know if there's another large combustible liquid of class 3b because that's not reportable. That would be could be in businesses I'm not aware of. Of reportable quantities on there, there's only one other -- I believe it was precision oxygen had a quantity of I believe acetyl lien and propane that would be of concern. We usually for the quantities they had generally about a 500-foot setback. I believe this property would be about 550 feet away. So, again, that wouldn't necessarily flow off alarms. It's as you stated, though, it's the quantity and where it's located directly adjacent. Those are the flags and the concerns. Those others, a lot of those, from what I remember, were very small quantities and nothing that would really raise a flag for us to be too concerned about.

[9:06:45 PM]

>> Tovo: When hi asked the question earlier about whether the development could be constructed in such a way as to mitigate the danger are from those materials on the adjacent tract, I thought I heard you answer that you really don't have the staff or the expertise to be able to even come up with a list of standards.

>> Correct. That would definitely require a very in-depth engineering analysis of that, to determine, like I said, specifically the radiant heat developed from those type of fuels and smoke production from those type of fuels. So unless I had that -- that's the type of thing that then I would give to my engineering staff for them to review and make sure they agreed with the findings. But we don't necessarily have the staff that can conduct those type of analysis. That's something generally the developer would provide for us and we would review.

>> Tovo: Okay. So more time is not going to help us get to those answers because we don't have the capacity at this point to come up with it?

>> On our staff, correct.

>> Tovo: Thank you, sir.

>> Yes, ma'am.

>> Mayor Adler: Mr. Casar and then Ms. Garza.

>> Casar: Mayor, I think that I respect councilmember Renteria's desire to move these industrial Zones outside of what it has been a residential area for a long time and is becoming even more of a residential area, even if it is, as some folks have pointed out, testifying and on the dais, even if it is potentially decades after it should have happened, that doesn't mean that we shouldn't find some way to do it now. However, I do think that I would -- while I can support it on first reading while we think of potential solutions right now where things stand I have a lot of difficulty passing it on second reading. I think that I would much prefer there be a longer-term strategy for how to get hazardous materials out of the area and then getting residential or other, you know, use that's the neighborhood wants at the time that we move stuff out.



[9:08:47 PM]

But if this is a good way of starting the conversation and I know this has been a goal of the councilmembers and lots of folks in that community for a long time, then I'm willing to get it started on first reading as a placeholder while we try to figure out a bigger strategy. I think that doing nothing poses a risk as well because, again, if somebody -- and -- if somebody did a hazardous materials permit for this site, then we're just continuing to buy and perpetuate issues that folks have brought up. So it puts us in a hard spot, but I'm glad this case has brought our attention to it.

>> Mayor Adler: Ms. Garza.

>> Garza: I'm a little confused as to why we're having this discussion about moving -- moving this industrial area because I don't know if that can be done by eminent domain or something but that would have to depend on the gentleman who owns allied sales selling his property. And so -- and I don't think he has any -- I didn't hear any intent of him saying that he's going to sell that business. So the only way, you know, we could move this industrial waste out is if every single one -- else there's another way to do it legally, is that every single one of these owners would have to sell their business. And I didn't hear that that was even an option. And it seems like this has -- the opposition to some of -- to the zoning is less about the fact that it's an industrial area and more about the fact that be it's a hazardous building in an industrial area. So I guess I just -- I haven't -- I haven't found a reason why -- not to mention I am the daughter of the retired fire marshal in San Antonio and he'd be very mad at me if I voted against the staff recommendation. So I'm going to have to vote against putting residential here.

[9:10:50 PM]

>> Mayor Adler: Mr. Casar.

>> Casar: And, councilmember Garza, I share the same concerns. My understanding, this is -- there's only one, it's the next-door neighbor and having some time to creatively at least leave the door open to a solution seems worth it to me in case there is one. I don't know what kind of zoning or arrangement could be thought up because this case has been presented to us now and there have been a lot of folks that understand this much better than I, what I best way of incentivizing a short or minimum-term solution to getting that one use out and I don't mean to be offensive to the gentleman here who runs the business, but I grow with some speakers who said that that -- it seems like the time for that kind of use this close to downtown and, frankly, this long next to an elementary school, sounds to me like what the fire marshal said, that if it was this kind of fire that you'd have to evacuate a half mile area. So it doesn't seem to make sense in that place for me, and if there's now time -- folks who are energized to tackle that problem, I would want to give them a chance. And if there's not a -- an answer in the next month okay, then I think it will be hard to approve residential development next door.

>> Mayor Adler: I'm going to go ahead and vote in favor first reading for real similar reasons. I still go back to the question I had initially. If you're going to transition this area from one to the other, it seems to me that you really need to bring everybody in that's impacted probably some form where everybody in many that block that Mr. Ford identified so that they could participate. Something feels strange about trying to do it with one piece of property. At the same time, I think this might be a good way to start that conversation or see if there's avenues or things to go. So I'm going to vote in first reading with those reservations as well.

>> Houston: Mayor.

>> Mayor Adler: Yes, Ms. Houston.

[9:12:50 PM]



>> Houston: I'm going to be voting against it because we're not here to decide about getting out of residential hazardous material out. That's not why we're here. We're here about a zoning case.

[ Applause ]

>> Houston: And so I think what we need to do is vote on the zoning case. And when the owner purchased the property, he knew that it was in a commercially zoned area. And so as we've been told any in number of times tonight, they have the opportunity to build several different kinds of buildings on that property without get -- without coming to us because it's already got the base zoning. So I'm not going to be complicit in saying you can't build what you bought the property for. If you want to build what you got the property for, go ahead and build it. Don't ask me for additional attempts because I'm not going to -- entitlements because I'm not going to grant those so I'm not going to be able to support this.

[ Applause ]

>> Mayor Adler: Mr. Zimmerman and Ms. Pool.

>> Zimmerman: Thank you, Mr. Mayor. I concur with councilmember Houston. I do agree with councilmember Renteria eventually I think the highest and best use of this will take over, but I think Mr. Ford had his business already in place. It's been there for decades, and he's not willing to see that resident -- poses a hazardous, the fire department has told us so I'm going to have to be voting against this at this time.

>> Mayor Adler: Ms. Pool.

>> Pool: Earlier tonight I voted to try to protect the safety of the residents in a new residential development that hasn't even occurred yet. And to protect the safety of school kids that currently live around this new residential district. And in that instance, I was voting against a staff recommendation. In this instance, the staff is recommendation against this development for safety concerns that are of a different sort but no less real.

[9:14:54 PM]

And so I have to vote against this on first reading.

>> Mayor Adler: Mr. Renteria.

>> Renteria: I just want to make a quick observation or correction. We're not talking about taking Mr. Ford's property away. It's -- a gentleman -- a developer bought the property next door to him. It was a chicken processing plant. That's what it was. You know, so what would happen is that no way we would take anybody's property away. You know, they -- you can rezone the property, downzone it, but until he gets -- that person gets ready to sell or move on, we cannot do anything. We cannot force that person to change his business plan that he has on-site. We're not -- nowhere near or able to do that without getting sued with a huge -- for a huge amount of money. So that's not what I'm suggesting. We have an opportunity here where we can change this industrial -- start changing the industrial area. But if it's the will of the council, then I'm -- you know, I'm not gonna be upset or anything about it. I just saw an opportunity there to start correcting some of the past injustice that has happened to my neighborhood, and I know when -- it's no fault to that family because back then in the late '40s it probably was -- in the '50s, probably was a dirt road down there when he first built there. You know, that's the way Austin was back then. East Austin. There was a lot of industrial use. But times changing, and I hope that when people realize that, you know, there's more money to be made and you can go and look at what Jim Arnold did to his oil company that he had there on sixth and comal, in fact he even got the building named after him called the Arnold and he's making a huge amount of money, part of the partnership.

[9:17:19 PM]



You know, he's invested into all the new growth that's come in there. So there's a the love opportunity just -- we don't have to have all this area zoned industrial forever. So even though this might go down, I just wanted to let y'all know that, you know, we're more than willing to work with y'all industrial people to make sure that, you know, you don't lose out in your investment. You know, there is going to be a time when you're going to have to start looking about moving because the traffic is going to be so bad and horrible around that area, and I'm sure that your truckers could tell you if they don't leave by 4:00 that afternoon they're not going to get out. You know? Because the traffic is so bad, trying to cross -- going south or north on 183. But that's said, I'll accept whatever happens.

>> Mayor Adler: Mr. Casar.

>> Casar: And, mayor, very briefly, I think that if we consider talking to folks about the neighborhood plan and actually consider giving some of those folks entitlements -- I know I heard from my colleague that they wouldn't be interested in giving those folks entitlements, but if we consider entitling that property for more and they're willing to sell and move and that means that we benefit the safety of people in that area, which it sounds to me like it's compromised, based on what the fire marshal said, then that seems to me to be a better scenario. So I'm not saying that the solution is to -- is necessarily to grant residential on this piece of property, but we can actively do work. It doesn't have to be eminent domain, doesn't have to be buying them out. Councilmember Zimmerman, we can utilize the market, give folks more property rights than they currently have on those industrial tracts. And maybe the market mechanisms trigger somebody to say, you know what? Maybe it's time for me to go -- it makes sense for me to go.

[9:19:22 PM]

So I would like for us to actively consider addressing the problem if councilmember Renteria and his district wants to address that problem and help out the safety of everybody. Maybe some folks end up making some money off the back of the deal and will that's not my interest in this at all. My interest is that -- my understanding historically is that this was wrong and we might have a chance at fixing it if we talk to folks about their zoning.

>> Mayor Adler: Any further discussion? Ms. Tovo.

>> Tovo: I think that would be an interesting discussion to have, and, you know, I also think that it's -- this is the third really complicated potential rezoning industrial tract that's come Ford to the council in the last year and each one has had its own complicated set of issues, but I think that's an area that's ripe for just some council energy and an interest. I think in those areas where the neighborhood and the community support getting rid of industrial uses, would be interesting to have some discussion about what tools we might bring to bear on seeing some of those things achieved. I think about peer casing and the amount of time and energy that's gone into trying to figure out how that use might be encouraged to move elsewhere, and it's not been an easy discussion or a short one or, frankly, a resolved question. So, you know, I've thought a lot about this zoning case in the last week or couple weeks, and I understand the argument that the applicants have made, that this is an opportunity to get rid of an industrial use in an area that's rapidly changing. But at the end of the day, I just can't feel comfortable allowing residents to be on a site next door with the fire marshal recommending that that's an unsafe condition. So I'm not going to be able to support the rezoning.

>> Pool: Mayor.

>> Mayor Adler: Yes, Ms. Pool.

>> Pool: I like that idea from councilmember Casar about having -- engaging a conversation on the potential relocation of the light industrial somewhere else.



[9:21:25 PM]

There's -- it's rife with complications and problems. And leaves behind sites that would need to be carefully remediated because likely there are a lot of hazardous materials on these areas. But if we are going to bring safe areas for families to live that seems to be the way to lay the ground work for that. And so I -- I think that's a great idea and would participate in a conversation along those lines.

>> Mayor Adler: With no further discussion -- Ms. Gallo.

>> Gallo: You know, this -- we have had some tough zoning cases tonight. The thing that I see with the map that was passed out is the residential is indicated in yellow and there's a lot of yellow in this area. So there's a lot of existing residential, and it seems like the discussion that we had not long ago on Springdale farms, which is right across -- right around the corner from this, there were a lot of residential neighbors that came forward to talk about that usage. And so I know there's a strong residential component in this area. I think the councilmember on the dais next to me brought up the point that if we can -- if we can begin to change the zoning on the industrial properties to more of a residential use, then one of the things we do is we then eliminate the potential for those properties being used industrially and with a more -- the more dangerous uses on those properties. And so it protects the residential component of those neighborhoods even more for the people that are there right now. So it just seems like it's a step in the direction of removing a dangerous use on the properties in these areas that are already full of residential properties, as I see all this yellow on this map. And it allows us to move in the direction of not continuing the uses that could be dangerous for those existing -- those existing residents and neighbors.

[9:23:34 PM]

>> Mayor Adler: Mr. Casar.

>> Casar: Mayor, I'd like to entertain a discussion about postponing this until January and then maybe there's a more comprehensive look at this since it doesn't look like it's going to have support to pass through first, definitely not second. And so I'd like to put that discussion out there.

>> Mayor Adler: Mr. Casar, if you -- you're asking for discussion as opposed to to --

>> Casar: I had second the passage so I don't know if I'm in order to --

>> Mayor Adler: You would be in order.

>> Casar: Withdraw and change it to postponement.

>> Mayor Adler: You wouldn't have to withdraw. You'd still be entitled to postpone.

>> Renteria: I agree.

>> Mayor Adler: Mr. Casar moves to postpone. Mr. Renteria seconds. The question -- Mr. Zimmerman.

>> Zimmerman: Mr. Mayor, this is in councilmember Renteria's district so I guess I would defer to him on the question and support his motion to postpone.

>> Mayor Adler: I would also be joining on this motion to postpone as well for the same reasons I gave earlier. There's something disconcerting about trying to change this area one piece at a time. At the same time, there's been conversation about whether or not this is the appropriate thing for the area. It seems to me an area plan might be in order, to get all the stakeholders together and -- I'm not sure still the best way to get from here to there. I wouldn't be voting now on third reading for this zoning approval. This might be a way to have the conversation and if this is something that Mr. Renteria wants to try to convene, that discussion in his district, I would vote to facilitate that.

>> Pool: Mayor?

>> Mayor Adler: Yes.

>> Pool: I think the next zoning meeting will be in February.



[9:25:37 PM]

>> Mayor Adler: We can move or we can set it on a council meeting other than --

>> Casar: What Ms. Pool said is what I meant.

>> Mayor Adler: Okay.

>> Pool: I was reading your mind.

>> Mayor Adler: February 11.

>> Pool: The 9:30 P.M. Mind meld.

>> Mayor Adler: The motion is to postpone until February 11. It's been seconded. Any further discussion? Those in favor please raise your hand. Those opposed. Those abstaining. I'm going to have to vote again because I didn't see it nose favor of postponing please raise your hand. And those -- all right. It is 10-0-1 with misgases abstaining. This matter is postponed until February.

>> Council, that was for both items, 43.

>> Mayor Adler: 43 and 44.

>> 44 and 44.

>> Mayor Adler: That's correct. Public hearing was closed on both, earlier vote, and both postponed. That gets us to number 33. 33 is the convention center matter. Let's do that real fast. Real fast. We'll see. 70? Why don't you do 70 real quickly.

>> Very good, mayor. Item number 70, excuse me, case c14- 2015-0118, emerald forest, a zoning change request to Imrump. Planning commission recommendation was to grant Irmucomp on the property.

[9:27:40 PM]

This property is about 1.56 acres. It was recommended by staff and the commission. The commission recommended approval of the property, 2,000 vehicle trips per day, prohibiting service station, alternative financial services uses, making a drive-in service use as a conditional use, limiting building heighth to two stories and 35 feet, requiring a ten-foot wide undisturbed vegetative buffer with maintenance provisions along the north property line and limiting noise levels on the property to 70 decibels along the north property line. Applicant has discussed with the park neighborhood association, their association correspondence is attached in your staff report. Some of the land uses that are nearby and zoning to the north is is neighborhood office mixed use, townhouse condominium sf-6 zoning and family residents or sf-3 zoning. The residents in the areas are large lots, church, reservoir and neighborhood park to the north. To the south is -- R and mf zoning with auto washing, apartments and condominium uses. To the east are apartments zoned lr and gr and to the west there's some medical offices, nail salon, single family residences again on large lots, undeveloped tracts and zoned office neighborhood retail and single family three zoning, family residence district zoning. Applicant does have a disagreement with regards to I believe the drive-in use and I think the applicant's agent, Alice Glasgow will speak to that. In the lateness of the hour I'll pause, if you have any questions.

>> Mayor Adler: We have three speakers on this -- actually, two speakers signed up.

[9:29:42 PM]

I didn't have Ms. Glasgow speaking. But we have three speakers on this, and then Ms. Garza, I think you were the one that wanted this pulled is that correct? Ms. Glasgow.

>> Good evening, again councilmembers. I'm back again. This is item number 70, emerald forest. The case is one where I have met with the neighborhood association. I've attended two of their meetings. One was on a Sunday afternoon, and it's an active neighborhood and with the assistance of former



councilmember Jackie Goodman we've worked out some condition. The neighborhood has -- supports the change of zoning from sf-2 and -- from single family 3 and 2 -- can you please pull the map back up, please? Thank you. Single family 3 to mlru, consistent with the recently adopted neighborhood plan. This property is owned by sherry cross-and her family. Her family has owned it since 1970, and the property is -- has -- creates an -- to self because it's zoned sf-3 around it and then the middle is zoned limited office so they've been unable to do anything with it for a long time. By changing the zoning to neighborhood retail, then the entire property has the same zoning and the neighborhood supports the zoning change. So I'll just keep my comments brief. I know you're tired. And the -- I have -- my client has accepted every condition that the neighborhood has requested. They've had several conditions, and we've agreed and accommodated all of them. The only condition that we asked for an accommodation has to do with a drive-through use. The site obviously for the last 45 years, you know, has a little pad where they sell Christmas trees from. So it has not been site planned or engineered. So we would like the opportunity to obviously explore what can and -- be placed there.

[9:31:47 PM]

So we ask for flexibility. The staff is not recommending a drive-through use and the neighborhood doesn't want it either. But all we ask is that you approve the planning commission recommendation, which indicates that if a drive-through use is proposed, then the site plan for that use would go to the planning commission for review and approval. And the reason I say that is that if there is an issue with any building on this site whether it's a drive-through or not, then obviously an engineering plan will help indicate what can be done. So all I'm asking is that we agree and have supported every condition that the neighborhood association has asked us to consider. The planning commission recommended on a ten-zero vote to approve the zoning and the conditions that have been recommended to you. So I ask you that you approve the planning commission recommendation with a drive-through as a conditional use. And I'll be glad to answer any questions. Thank you.

>> Mayor Adler: Anyone have any questions? Thank you. We have two speakers signed up on this. David king. Okay. Henrietta [indiscernible]. You have six minutes.

>> Six minutes, awesome. Well, good evening. I'm the president of the armadillo park neighborhood association, and so our neighborhood was built out mostly in the 1970s, when we were a sleepy little college town, and so the infrastructure reflects that. And so the trick is on the undeveloped parts of it is to fit in development gracefully into the neighborhood so that whatever is built there is an asset and not a detriment to the neighborhood.

[9:34:04 PM]

And so we did work a lot with the owners -- well, with Alice quite a bit, and we are very appreciative of the conditions that they agreed to, and I think it will go a long way to helping out the property owners just north of the land, but they're all single-family homes. She does mention a multi-family zoning. That lot is currently undeveloped. And also on our south Austin neighborhood plan, that the area just north of the lot is part of the residential core. So -- but that being said, we really don't see eye to eye on the drive-through facility as a conditional use. There's a whole lot of really good reasons not to even consider a drive-through use so we feel like it's the best -- it's a good thing to support the staff's recommendation to prohibit it outright at this point. And the objections have to do with the traffic problems. Emerald forest is a neighborhood collector street, one lane of traffic in each direction. And there's a bicycle lane on each side, and so it's not -- we have existing problems on the street with traffic. It's a cut-flew through route, and it's hard to cross that street. The people living in the western part of the neighborhood, including me, have to cross emerald forest to get to armadillo park, which was newly



developed and we're wonderful and happy about it, but you have to be really spry to kind of spring across that emerald forest. And for now I'm still spry, but I don't know.

[9:36:09 PM]

Also, the makes living right near that intersection, whose properties are just to the north of the property pointed out that there's a chance of collision on emerald forest. There's a driveway on emerald forest just north of William cannon, and so there's a traffic light there. So if you know William cannon, it's a major street. The speed limit is 40 miles an hour, but people kind of go 50 miles an hour. So if you're like eastbound and trying to make a left turn on emerald forest, there isn't such great sight lines so you just kind of -- E remove R, you know -- errr, kind of make a very fast left turn. So you're going fast and so that creates a conflict with anybody coming in and out of the driveway. So a driveway, you know, just encourages more traffic, and so that really conflicts with our traffic problem and the collision risk. And also we are part of the south Austin combined neighborhood plan, and some of the things we want in many our neighborhood is to -- is places to walk to, which is why we're not objecting to the rezoning, per Se. We're just saying prohibit the drive-through facility. And so we want it to be a safe place for people to walk to. There's a bus stop right on William cannon, right in front of the property, and I do see people getting on and off the bus. And so having a drive-through would make it more difficult for people using that bus stop. And also for people coming north on William -- on -- from William cannon trying to use the park. We have a lot of people who live south of William cannon who really like our park and want to cross William cannon.

[9:38:19 PM]

So putting a drive-through facility makes it tougher for pedestrians in that area. So that's the main thing I want to say about the diversities. I know -- drive-throughs. I know during the planning commission there was some discussion of requiring a privacy fence along the northern boundary and I don't think the owner objects to it, but I didn't see it in the official recommendations so I want to make sure it's put in there. So I guess I'll open it up to questions if y'all have any questions.

>> Mayor Adler: Did anybody have any questions? Yes, Ms. Troxclair.

>> Troxclair: You said you didn't see the drive-through. What did you just say at the end that you didn't see in the official agreement?

>> Well, on the official planning commission recommendation, I didn't see, like, the privacy fence mentioned.

>> Troxclair: Privacy fence, okay.

>> So this is, like, maybe a friendly amendment sort of thing.

>> Troxclair: Okay.

>> But I mostly -- I'm concerned about the drive-through. Oops, sorry. Sorry.

>> Mayor Adler: Okay.

>> Anyway.

>> Mayor Adler: Any other questions? All right. Thank you.

>> Okay. One thing -- am I allowed to say something real quick?

>> Mayor Adler: Real quick.

>> Yeah. The reason why we want the drive-through prohibited outright, too, is that, you know, sure, it's a conditional use, you know, proposed, and, you know, we could have a site plan and come back again, but it's kind of a hardship on those of us in the neighborhood. A lot of us work full-time and don't have very flexible jobs so it's hard to come here and sit for hours and come again and oppose something that we didn't want to begin with.



>> Mayor Adler: Thank you very much.  
>> So thanks.  
>> Mayor Adler: Ms. Glasgow, do you want to --  
>> Kitchen: Could I have.  
>> Mayor Adler: Ms. Kitchen.

[9:40:19 PM]

>> Kitchen: I just wanted to confirm, if I'm understanding correctly, it's the drive-through part that you -- not the project, per Se, or not the zoning per Se arbitration but it's just the drive-through, the fact that there's not a condition in in -- a prohibition in there, right, that's what you're promotion E proposing.  
>> That's right.  
>> Kitchen: Just on the drive-through.  
>> Mayor Adler: Ms. Glasgow okay, you would come in and close. In your close would go you address primarily the question of the drive-through.  
>> At the planning commission, we did agree, like I said, to all the conditions the neighborhood asked for, including a privacy fence. We agreed -- we're agreeable to that. The only thing that I asked in addition -- in agreeing to all the conditions the neighborhood asked for is that since we do not have a specific use, we would -- my client would like the flexibility, should she have an option of compounding pharmacy, sometimes they have drive-throughs or drop-off laundry, drop off, pick up, those are use that's typically have drive-through windows. So the intent here is that should there be a tenant or someone who -- or part of the building should become a drive-through, then that use would come to the planning commission for approval. That's the only request we're making, to make the distinction between prohibiting it completely so that it's not allowed at all versus us -- giving us the opportunity to demonstrate that all the issues are addressed. The concerns I'm hearing about having a conditional use - - having a drive-through use has to do with addressing driveways, ingress, egress, and queuing. Those are the typical concerns when talking about a drive-through use, do you have enough area on your site to accommodate vehicles coming in to drop off and we're not going to be able to tell that today because we don't have a site plan, and at the site plan stage the planning commission has indicated they would like to see that site plan to ensure that ingress and egress are adequately addressed and that queuing is also addressed on the site.

[9:42:35 PM]

Now, councilmembers, if we go and hire an engineer and the engineer looks at the site, all the requirements that have to be complied to, including subchapter E, which are the commercial design standards, he may tell us that, you know what? You don't have enough room to accommodate a drive-through. So it's not 100% certain that we're going to have a building with a drive-through facility. We're just asking to give us that opportunity and instead of that site plan being approved administratively by staff, we are suggesting and offering that that would be a public forum where the neighbors can then decide whether it it meets all the the ingress/egress and queuing issues that typically people associate with drive-throughs.

>> Mayor Adler: Thank you.  
>> That's the only issue we have. Thank you, mayor and councilmembers.  
>> Mayor Adler: Thank you. Any questions? Ms. Kitchen.  
>> Kitchen: Is staff here? Hi. Thank you, Mr. Guernsey. So could you speak to the drive-through issue?  
>> Yes.  
>> Kitchen: What is the staff's recommendation on this.



>> Staff didn't recommend the drive-through or the -- for the compatibility reasons. It's just -- the lot is not very deep. So it backs up to those residents. There's not a lot of room. And the issues that you might have with a drive-through aside from moist and fumes of vehicles we feel would be that compatible with the residential uses to the north. If you look at the other tracts in the area, those tracts are much deeper and there could be more of an accommodation to vehicles, given the site we probably would allow V to align parallel to that property line and come across they could potentially line up between the buildings because the buildings have to sit back. Perhaps some of the driveways, depending on the design, and we didn't think it was compatible. So we didn't recommend it.

>> Kitchen: Okay. And when you say you didn't recommend it, does that mean that if we were following your tremendous would be a restriction -- a restrictive covenant or whatever and then --

[9:44:39 PM]

>> Well, we recommend prohibiting the drive-through as an accessory to a use, whether it's a restaurant or some other use.

>> Kitchen: Okay.

>> Mayor Adler: Do you know why the planning commission got that recommendation and then unanimously said to allow a drive-through as a conditional use?

>> I think it -- because this site -- I know this has been a Christmas tree site for a very long time. I mean, probably 25 years plus. But it is a very narrow site, and as Ms. Glasgow pointed out, there probably may be a way that you could accommodate certain types of drive-throughs that may be less obnoxious than maybe others and that may be the reason why the commission said that. I wasn't present at the meeting, after it gets approved on first reading we can certainly go back and research more. But when you do a conditional use permit it's a site plan that goes before the commission, requires their review and is actually appealable to you, the city council. If there's an aggrieved party, whether it's Alice's client or the neighbors. So it brings a heightened level of review to the site that you would not normally have.

>> Mayor Adler: Would we -- what would be the criteria -- if we gave it a conditional use, requiring the -- coming to the commission and then to the council on appeal, what would be the criteria that we would employ at that point for deciding whether or not to allow the drive-through.

>> You'd be looking at compatibility, does it meet code, cause undue traffic burdens? It is a discretionary action by the commission, and then the -- if there was an appeal, the council would appeal the commission's decision and having that same ability to consider those things.

>> Mayor Adler: We could take into account compatibility at that point, whatever the use was?

>> You could.

[9:46:40 PM]

>> Mayor Adler: Okay. Further discussion on the dais? Ms. Garza.

>> Garza: I just want to move staff's recommendation prohibiting the drive-through outright and also adding the privacy fence in the back.

>> Mayor Adler: There's been a motion to adopt the staff recommendation of the privacy fence in the back. Ms. Pooling seconds that -- implementation pool seconds that. Ms. Pool seconds that. I'm sorry?

>> Gallo: Can I discuss?

--

>> Garza: Can I discuss this?

>> Mayor Adler: Yes.

>> Garza: Okay. Just as a matter of discussion, I appreciate request to make it a conditional use and come back to planning, but there's a -- I guess there's a broader sort of equity conversation that needs



to happen, and these -- you know, my district, as Henrietta pointed out, is a working-class neighborhood, and they can't bring the Numbers of people to these kind of -- to these meetings, to planning commission that other neighborhoods can bring. And so my fear would be, if this goes back to the planning commission and Henrietta is the only one that can show up, that could sway the vote there. And so I think if we have the opportunity now and the neighborhood is not against the rezoning into commercial, it's just saying we just don't want this drive-through, I think we need to take that opportunity and just prohibit it outright.

>> Mayor Adler: Okay. It's been moved and seconded to adopt staff's recommendation with the addition of the privacy fence. Further discussion? Mr. Zimmerman.

>> Zimmerman: Thank you, Mr. Mayor. I was going to make a motion we close the public hearing. Is it too late it to do that or can we do that first?

>> Mayor Adler: We certainly can. Mr. Zimmerman moves to close the public hearing. Is there a second to that? Pool seconds that. Any discussion? Nose in favor raise your hands. Those opposed.

[9:48:40 PM]

It's unanimous. We're now in discussion of Ms. Garza's motion. Is there any further debate on Ms. Garza's motion? Those in favor please raise your hand.

>> Garza: Actually, I have another question.

>> Mayor Adler: Yes.

>> Garza: Could this had been done on all three readings?

>> No, I don't believe we have an ordinance prepared this evening.

>> Garza: Okay, thanks.

>> Mayor Adler: First reading then. It's been moved on first reading. Those in favor of the motion on first reading please raise your hands. Those opposed. Everyone on the dais. Passes on first reading that way. Staff recommending with the addition of the privacy fence. I'm going to pick up item 57.

>> Houston: Mayor, when can we do it on first and second reading?

>> Mayor Adler: We probably could have done first and second. Maybe the next one we can do second and third.

>> We normally would bring this back to the next zoning meeting for second and third readings.

>> Mayor Adler: Okay. We're going to -- let's do item 57. We have nine people waiting.

>> Item 57?

>> Mayor Adler: Yes. By the way I would point out for people watching that there's a version for an amendment to item number 33 which is a convention center which has been posted on the bulletin board and handed out to everyone at the dais and there is a version of the str moratorium that is also about to be handed out and is posted on the bulletin board. Item number 57, lay that out.

>> Zimmerman: Just make a note, Mr. Mayor, I plan to make a motion to refer the convention center item to committee, for what it's worth. I'm going to make that motion.

>> Mayor Adler: Okay. Item number 57.

>> Thank you, mayor, council. Item 57 is case c14-2014-0186, property located at 2500 south heatherwilde boulevard, district zoning for tract one, multi-family residence, moderate high density, mf-4 district zoning for tract two.

[9:51:02 PM]

Community commercial district zoning for tract three. Zoning and planning commission's recommendation was to grant single family residence small lot sf-4a district combining district, multi-family residents mf-4 for tract two and gr zoning for tract three with conditions. The property overall is



about 43 and a half acres in size. The largest tract being tract one, which is approximately 31 acres in size. The multiple family tract being about 12 speakers the small portion, the gr portion, retail portion being just over a third of an acre. The zoning and planning commission's recommendation was to approve the staff recommendation for the sf-4a in tract one, mf-four for tract two, gf for tract three and there's an issue regarding this property regarding access. The property in question is a large undeveloped property. Its currently being used for pasture land. It's located in the intersection of wells springs parkway. To the north are developed single family lots located in the county. To the south along wells branch parkway it's undeveloped. To the west are undeveloped lots, also located in the county, and to the east there's single family residential neighborhoods known as ceres creek currently zoned sf-4a. The applicant is requesting to subdivide these properties up, like I said to mainly do residential. There's concern that has been raised by the property owners to the north about access from this property through three or four of the streets that are to the north. There is a high school that I believe is located a little further to the north that's kind of off your map, off of -- off your map on south heatherwilde boulevard going away from branch.

[9:53:18 PM]

You have several speakers. I'll pause. Also transportation staff is here to address some of the connectivity issues with access from this property to the north. And if if you have questions, I'll be happy to answer them or transportation staff can address those questions that deal with connectivity.

>> Mayor Adler: Does the applicant want to start us off? Mr. Whalen?

>> Michael whellan on behalf of the owner of the property. Our position is we support the neighborhood's desire to -- and the staff recommendation 9-2 after a lengthy discussion to go ahead and create a protective barricade at the end of each of the streets to allow for pedestrian and bike access only. That's where we are. Again, we're very similar to the case you had earlier, item number 41, I think, where you have owner staff on a 9-2 vote and the neighborhood coming collectively before you wanting the same thing. With that I'll sit down. Thanks.

>> Mayor Adler: Was that the only issue that was in controversy?

>> Yes.

>> Yes.

[ Laughter ]

>> Mayor Adler: Can transportation come up? You would talk to oust about what your recommendation would be here and why? Gordon doctor, assistant director, Austin transportation department. These parcels have four streets to the north. Which exist in the county.

[9:55:21 PM]

We understand there's substandard streets, but in -- as per the discussion we had earlier, we feel it's important that we have connections, that we don't have large block areas. To the north there's also been discussion about the potential high school site to the east of the parcel. We think it would be appropriate to have future connection to that site so that we could, again, have circulation around those sites. And the existing school to the north and east, it would be good if there was a pedestrian -- some kind of access up through that area to that existing school for these kids in this development might connect to.

>> Mayor Adler: Is there a picture of therefore that you could point to -- of this that you could point to on the screen?

>> So that is the parcel that's under consideration. You can see the four streets along that north edge. There's also a fifth street in that development further to the west that actually hooks into the



subdivision that's located -- that's the entry out off the wells branch. So the folks on those residential areas to the north can access wells branch by going through the other residential development. This this will potentially provide alternate routes so there will be less traffic volume on each of those streets.

[9:57:25 PM]

>> Mayor Adler: So is it -- the issue is to extend those four streets to wells branch or to have connections in essence that come through to wells branch?

>> Yeah.

>> It's connections through the subdivision. Do you have this? At least the preliminary map of the potential subdivision would not have direct connections. But people would have to circulate through the neighborhood to make those connections.

>> Pool: Mayor, there are two connections directly on to wells branch. As you can see on the bottom side of this schema it at the top are the four additional connections staff is talking about. That's the county right there. Those are substandard county roads. They are 16 feet wide. They have deep, 5-foot deep bar ditches on either side of those roads. The concern of the neighbors and, frankly, myself and the developer are that if you cut through with the standard width of roads the city requires, they will then immediately narrow on to substandard county roads, and we have no jurisdiction over any sort of traffic mitigation or building sidewalks or raising the bar ditches out. The neighbors along that road have built up their mailboxes with rock and brick in order to protect them from cars that currently, even without these connections, run into them. If you look to the east, I think this is to the east, if I'm oriented correctly, Mr. Dur, am I correct, is that stub-out street including sidewalks, is that to the east?

[9:59:27 PM]

>> Yes.

>> Pool: That is the city of pflugerville. We do not have jurisdiction for anything that goes in there, which is why those stub-outs are just stub-outs. At some point possibly pflugerville may or may not build in those areas but those roads will not go anywhere under the city of Austin's authority. The compromise that the developer and the residents have worked with the city transportation folks -- andy seem to have drawn the black obtain of all the really complicated and awkward connectivity cases. For November -- is to have a single connection out the back. The recommendation is that it not be the eastern most but one of the three toward west because another item that isn't clearly evident here, the drainage on this piece of the property that is below that pedestrian midblock path estimated location bubble, if you look right below that, that slopes downward and it is a marshy field in the pflugerville jurisdiction. We are uncertain as to why that field is so marshy. But it will clearly have some -- it will have some effect on what is built there. And the city won't be able to do anything about that. So the developer and I think Mr. [Indiscernible] Can maybe talk to the comprise that we've achieved and that I would be looking for on first reading.

>> Andy, development services.

>> As councilmember pool has indicated, we've been talking about this case for a while. We have reached a compromise we'd like to explore and approach the neighborhood. I've actually spoken to Mr. Whellan. He said he would take it to his client to discuss, and that would be to provide full vehicular connectivity on one of the four streets going to the in order, keep this connection to the east.

[10:01:38 PM]



I was told, I still have to verify it personally, that that is a potential school site as well. And then explore with the school district, Travis county, and the developer, is there a way to secure some mitigation funds toward improving a pedestrian connection to the north to the elementary school. I'm not sure which street would be the preferred alternative. I believe they would give you the right-of-way for the four connections. They would just not build the connection, they would make it a limited bike/pedestrian but put one vehicular connection through so that residents could access what will be a potential signal at wells branch, which which would allow a protected left at some point.

>> Pool: And am I correct in that the -- all the connections down to wells branch are -- there's no controversy about those, it's which of the four subouts up at the top of the -- of this picture are ones that are --

>> Yes, ma'am, that's correct.

>> Pool: Okay.

>> There's not an issue, I don't believe. That one mitigating issue here is that the previous developer who prepared this plan no longer has the property under contract, and we are just purely speaking of zoning.

And I believe that creates a little bit of apprehension for Mr. Whellan, his client is going to be marketing a piece of property with just zoning, but he said he would take back the idea of looking to see if there's a compromise where we have at least one vehicular connection, then possibly exploring potential for mitigation funds to do something to the north in one route or another.

>> And staff would commit to working on that between, you know before we come back with the next reading.

>> Mayor Adler: Okay.

Thank you.

>> Pool: And that's what I'm looking for in this first reading, the motion would be to approve the first reading, along the lines of what Mr. Linseisen has just articulated, with the connectivity as listed on this picture, and then just one of the four stubouts that are up at the top of the picture, and the preference would be either from the left to the right, numbers 1, 2, or 3, and not the fourth one.

>> Mayor Adler: Ms. Pool moves the compromise on first reading.

Is there a second to that?

Mr. Zimmerman seconds that.

We have some speakers that are signed up to speak.

Janie Brannick.

Is louis Brannick here?

Yes, sir.

You have six minutes, Ms. Brannick.

>> [Sneezes]

>> Mayor Adler: Bless you.

While she's coming up, is there a motion to extend past 10:00 p.m.?

Mr. Renteria so moves.

Is there a second?

Ms. Pool?

Those in favor of staying past 10:00, raise your hand.

Those opposed?

It's unanimous, with the Mayor Pro Tem off the dais.

Ma'am.

>> Hi.

Good evening, mayor Adler, Mayor Pro Tem, and councilmembers.

Yes, it is late.



Anyhow, my name is Janie and my husband and I have lived at that subdivision for over 40 years. Our home borders the Ken Finley property which is up for rezoning today.

Councilmember Pool probably has touched on a lot of stuff I'm going to talk about but I'm going to talk about it anyway.

We are not totally against the development but we reject the staff's these streets were built over 50 years ago, this gravel country roads, and we're not designed for high volume traffic coming from a major development.

These streets are 16 to 20 feet wide at best, with deep bar ditches for drainage.

There are no sidewalks or curbs, which is a major safety issue for children walking or bicycling, to spring hill elementary, Pflugerville middle school, and Pflugerville high school.

We have no street lights, which adds to the safety risks.

It's country, it's rural.

Travis County has no plans or the money or the funding to make improvements to our streets, to make them safer.

The streets were built to county standards, not city standards.

They are substandard streets, and it would be very expensive for the county to get the streets up to city code by widening the streets, moving waterlines, telephone lines, which at the end of our street, mailboxes, building sidewalks, curbs, addressing drainage issues, which are a major issue in this subdivision also, which we've had a lot of problems with and it's coming from the property because it does come and slopes down, and when you headset the Marsh, spring hill subdivision is why they called it spring hill.

We have springs.

They're still running after all the rains.

Anyway, and also adding street lights.

Opening the very narrow streets would greatly impact the safety of the children that walk or bike to or from along with cars taking the children to school.

This would be a total nightmare.

Someone will get hurt or, worse yet, killed.

Then Travis County or the City of Austin will be liable for this accident.

Several years ago, children were hit by cars on Vincent place, the one that goes east and west, because that Vincent place goes through Sarah's creek, which is this other subdivision, because of the narrow streets.

Accessibility policies are not that important, but children's lives are the most important thing here.

Del Hunt Lane and Vincent place are already congested with traffic from Sarah's creek subdivision to the west and from spring hill lane and Hebbe lane and does not need any more traffic from any future subdivision.

We're already it's very heavily congested right there.

We have the collaboration of our neighborhood, everybody.

The owner of the land, Mr. Finley, who I think is still here today, and the City zoning and planning commissioners tonight opened the streets.

We are asking the City Council to honor and approve the zoning and planning commission recommendation, both of nine to two, at the August 18, 2015 meeting, adding a conditional overlay to prohibit vehicular access and to permit only pedestrian, bicycle, and emergency access to the existing streets to the north.

Spring hill lane, Hebbe lane, DelaHunty Lane and Abbey lane.

City Council approved crash gates on March 5th, 2015, in South Austin development.

I gave y'all a packet and it's in there.

There's also one for crash gates.



There's an article in your practice that I found for collapsable, which is different from metal gates.

If you look at the packet, I think that would be a rather nice compromise for all the streets.

This is a unique and exceptional case, with three jurisdictions.

You've got the City of Austin ETJ, Travis County City of Pflugerville.

There will be no improvements from Travis County.

The City of Austin cannot come into the county jurisdiction, so there will be no help there.

And the City of Pflugerville cannot help, either, because we are in the ETJ of Austin.

So how would the improvements to the streets and these safety issues be solved?

Maybe at some point when the streets' infrastructures are met, connection may be a possibility, but not at this time.

We respectfully request that you allow any future development to connect at Heatherwilde and wells branch.

Wells branch has got two exits, and there's also sidewalks on wells branch that lead into Heatherwilde Boulevard.

Please give this your careful consideration and try to understand how an old country subdivision with substandard streets would be impacted, opening the streets to a major residential and multi apartment complex.

Safety is a major issue here.

Not an economic or convenience issue.

Thank you and I appreciate your time.

[Applause]

>> Mayor Adler: Mr. Guernsey, so that I can understand the testimony, is it being proposed to build the streets so the lots so the streets would be there, we would just put some device or some method to prevent cars from then traveling through, with the exception of the one crossing?

Is that what we're talking about doing?

>> I think that's what Mr. Linseisen was talking about earlier, there's a discussion that will explore with the owner, that one of those may be going north, would be improved of the four streets that would connect, and looking for some sort of mitigation traffic calming devices that might be placed along that roadway to lessen some of the concerns of those residents.

>> Mayor Adler: What about the lots that would be where the streets would have extended to, at some point in the future, if there's a desire to extend the other three streets as part of the county widening the streets, those lots, would they be would there be homes on them or would they be kept as part of the right of way and subdivision so it was able to be extended?

>> I'll let him answer that.

>> Mr. Mayor, we have spoken, when I spoke to Mr. Whellan, that we would request that the streets be reserved as right of way.

>> Mayor Adler: Okay.

>> They can choose to

>> Mayor Adler: That was my question.

>> They can choose to build a pedestrian path or leave it undeveloped with barricades in place like they are today.

>> Mayor Adler: But the full right of way would be

>> The full right of way would be dedicated as part of the planning.

>> Mayor Adler: That's what I wanted to know.

The next speaker is Patricia strait.

>> Mr. Mayor, councilmembers, my name is Patricia strait, and I've also lived on Delahunty lane for 42 years.

We're old timers out there.



I'm very concerned about the safety of opening up any of the four streets to heavier traffic. Delahunty lane is just a little bit more than a half mile long and it has two lanes, no center stripe going down the center, no shoulders.

Halfway halfway down our street there's a hill and you cannot see oncoming traffic until you get halfway or crest the top of the hill.

We know, we've lived there forever, you know watch out when you're going over that hill, there could be dogs running across the street, there could be a vehicle parked on the other side making it a one lane street.

If there is a repair truck or a car or a garbage can or something sitting in the street, it goes to run lane really quickly on the street.

The elementary, middle school, and high school children all walk from Sarah's creek to the west of our neighborhood, through our neighborhood, and over to the east side where the school is.

Delahunty is the blue street right there, and the schools going down the red path goes from Sarah's creek, down to the elementary school where most of the children walk, but there's also a lot of middle school children and high school children using that same area.

At present, there's already two major thoroughfares, there's Heatherwilde that goes north to south. They're green, Tacon, north to south, and 1825.

Tacon is two tenths of a mile from Delahunty.

Heatherwilde is four tenths of a mile from Delahunty, and 1825 from the new subdivision will just be seven tenths of a mile.

They all go into Pflugerville.

They all access wells branch.

And I'm just not sure of the necessity of adding more through streets to this.

If you could show the next map on there.

Okay.

This is another problem.

At the end of Delahunty lane, it's a T stop.

There's not a straight through street onto the main thoroughfare, 1825.

You get to the end of Delahunty, there's a yield sign.

I think that's for the school children because they put that in after the sidewalks.

Then right behind the yield sign there's a stop sign, and right across the street is a Walgreens drug store.

There's a driveway down here, then there's a stop sign on the far side which people ignore, go right through it to the yield sign that goes up to Winder Mere and out to 1825.

I'm not sure with the extra heavy traffic what's going to happen.

This offset it's four stops, but they're offset.

These are over so far excuse me that when people come to turn, they don't even really stop and look that you're over here on Delahunty, stopped at the stop sign.

[Buzzing sounds]

>> Anyway, buzzer, I hope that you'll take this into account when making your decisions on where you know, the traffic patterns and what's good for the future of the community.

>> Mayor Adler: Thank you very much.

>> Mayor?

>> Mayor Adler: Yes.

Ms. Pool?

>> Pool: Ma'am, thanks for coming.

Back up to the very first picture you had up on the screen well, I guess our staff can do that.

I just wanted to lock in my head the names of the streets.

We have heavy, Delahunty I'm going from east heavy, Delahunty, [inaudible], spring hell, and Tacon.



>> Those are the four they're proposing to open one of those.

>> And spring hill and Tacon are the most

>> Tacon is already open.

It's open from wells branch to 1825.

>> So if we were to have one of these streets go through

>> Tacon.

>> And that's the one that already goes through.

Is that right?

>> It does.

Yes.

>> Okay.

And then spring hill is parallel to it a wee bit to the east of it.

Is that right?

>> Yeah.

All those streets are parallel.

>> Okay.

>> But there's very a very, very short distance between them, like I said, from Delahunty to Tacon is two tenths of a mile.

>> Pool: Got you.

That's the back side of the homes that would be platted along spring hill.

>> Yes.

That also goes straight to 1825, whereas the other ones curve or have hills at the very end of the street or go to a TV stop.

I'm really not sure what that would do to traffic.

I'm thinking it would be a terrible mess.

And we already have, you know, three neighborhoods feeding into that one little intersection.

>> Pool: And your position is that Tacon is sufficient for that north south transit.

>> I feel like it would definitely be a good through street.

>> Pool: Okay.

Thank you.

>> Thank you.

>> Mayor Adler: Arlene moody.

Is Frances petter here?

You have six minutes, Ms. Moody.

>> Thank you.

Good evening.

Thank you for allowing me to speak before you, Mayor Adler, Mayor Pro Tem, and council.

My name is Arlene moody and I live at 15101 Delahunty lane in the spring hill subdivision, which is at the boundary between Travis County and the City of Austin.

He's popping up a few of the pictures of just the streets out there. Today I and other residents are here to convince you why none of the four streets in the spring hill subdivision should be open to through traffic.

I'm talking about through traffic coming out of a multifamily and single family subdivision with probably 50 foot wide streets into a neighborhood with 16 to 20 foot wide streets.

These streets should be opened for pedestrian, bicycle, and emergency vehicles only, as it would be very dangerous otherwise.



Several residents of spring hill subdivision appeared about the City of Austin zoning and planning commission and expressed concern about having the four streets in spring hill open to traffic from this new subdivision.

Some of the platting and zoning members had even taken the time to drive our neighborhood to better understand the concerns we were voicing.

The commissioners listened and they voted to keep the four streets closed.

And the continued, to repeat and repeat why it's so very obvious why our streets not be opened just seems redundant, but I'm going to continue.

The streets are less than 20 foot wide, which obviously creates problems when meeting traffic, especially the mini garbage trucks.

And I think we have as many as five different companies out there.

Larger trucks or vans.

Somebody has to give.

The streets have only a thin layer of asphalt, which is often in need of repair.

The county would never have the budget to come in and make the necessary changes for the increased vehicular traffic or even for sidewalks for pedestrian traffic.

It just is not safe.

And as has been noted, we have no sidewalks, except for one side of Vincent place coming out of neighboring Sarah's creek and beginning at the intersection with Delahunty lane and into old Pflugerville road.

Only after a child was had it a few years ago did the county come in and construct sidewalks to accommodate the kids coming out of Sarah's creek walking to the elementary, middle, and high schools.

And I'm sorry, I don't have a video of Delahunty lane but if I did, it would show that it possibly is the most dangerous street when cars are meeting or for children walking as there is a very blind hill driving north or south on Delahunty near the intersection with Vincent.

If someone driving this street is not familiar, it does pose a danger for a head on collision or, worse yet, someone hitting a child walking in the street.

And we have no street lights, posing a definite safety concern for any child walking to or come school.

If Delahunty lane is being considered, it goes without saying that myself and everyone living on Delahunty will be against that for many reasons which have been and will be mentioned.

If after hearing everyone and you believe that our streets should be opened, then all four streets should have to bear the burden of the traffic coming out of the subdivision, not just Delahunty lane.

I hope that the comments you have heard and continue to hear, as your eyes glaze over and you begin to tune some of us out, and before you have a final vote, that some of you would actually take the time to drive our neighborhood, to see for yourself and not just adopt a belief that all streets should be opened and accessible, just because some other cities have adopted this open street policy.

The zoning and platting commission, the owner of the land, and the residence of spring hill have all voiced reasons for keeping these four streets closed for safety, and it is my hope that the City of Austin council agrees.

I am not against this subdivision, but I also do not agree with staff recommendations to open any of these streets.

We strongly suggest that there should be a stubout on Heatherwilde and that staff continue to work with the developer to construct a street with sidewalks to exit to Heatherwilde, where children and cars can go north to all the three schools.

Thank you for your time.

>> Mayor Adler: Thank you.

[Applause]

The next speaker is Jim petter.



Bradley Sinnot is on deck.

Mr. Petter, you have three minutes.

>> Mayor Pro Tem, council, I have a short video to show you, the drive down Hebbe lane, what it's like. I go 30 miles an hour, close to the end.

This road is only 18 to 20 feet wide, so you can see what it's like.

Picture oncoming traffic at this time or pedestrians in the road, you really don't have much room to move over anywhere.

The road surface is very thin in places, and always in repairs.

And the other video is going to cover our garbage disposal trucks.

>> Can you tell us what street this is, sir?

>> This is Hebbe lane.

>> Thanks.

>> The street that we live on.

This is driving approximately 30 miles per hour at this time.

This point in the road is where it's only about 18 feet wide at this bridge crossing.

Here's the end of the street, proposal where they want to go and open the roads up into our neighborhood.

>> Sir, so were you driving south here?

>> I was driving south.

>> To the south, okay.

>> Leaving my driveway and heading south.

And this is this is when the garbage trucks come in.

It doesn't leave you much room.

You can see the truck taking over much of the roadway.

He's waving me on, but ...

That's it.

Thank you for your time.

>> Mayor Adler: Thank you.

Next speaker is Bradley Sinnot.

Is Paul parsely here?

Paul?

You have six minutes, sir.

>> Hello.

My name is Bradley Sinnot.

I've lived at 8035 Vincent place for 33 years.

Our neighborhood is a small, older, quaint, but welcoming community.

Over the last ten years our neighborhood has seen some changes.

Most of them have been detrimental to our neighborhood.

Back in 2000, two of our main streets were opened up to the community next door, Sarah's creek.

At that time the sidewalk was also put on over a short period of time.

Sarah's creek has become a low income community that has significantly caused our crime to go up in spring hill.

I, myself, was a victim not long ago, and that caused nearly \$13,000 worth of damage to my vehicle, with somebody trying to break into it.

Numerous houses and vehicles have been target in our community this year.

I, myself, has since installed cameras and alarms to protect myself and my family from the growing crime in this neighborhood.

Opening the streets in Sarah's creek has also caused traffic issues.



Many residents of that community, on a daily basis, run our stop signs and speed through our neighborhood.

Being so close to an elementary school, this is a cause for concern as many of the children do not use the designated sidewalk to walk home in Sarah's creek, but instead, walk in the street, putting putting them in danger.

Also, the streets are narrow, causing two vehicles to come dangerously close when passing one another. If a vehicle is heading to the stop sign on Vincent place, turning left on Delahunty, there's no way for an oncoming car to turn right off Delahunty on Vincent place without hitting.

So the car must wait to turn, causing the car to be in danger of being rear ended.

Also to add to concern is the blind hills coming north on any of our given streets.

Delahunty, spring hill, and Hebbe.

This would cause new residents to come flying over a blind hill at alarming speeds, putting everyone in danger.

With all the new business development around and in our community, these changes are becoming a huge issue for our small community.

We ask that you keep our streets closed to protect our families in the community.

The other day, I personally counted cars coming through the intersection of Horborne and Vincent place for an hour in the morning, which was 185 cars that come through, 7:05 to 8:05 a.m. In our neighborhood, there's 150 homes in it, which average two cars per house, would be 300 cars.

So that's over 450 cars, total, in one day.

That afternoon, I also counted, and I counted 188 cars in a two hour period.

A true traffic study has not been done on how many cars come down our streets.

And then on spring hill, they put in a dollar general store, which the only access is onto spring hill.

When cars come out, they go up spring hill and 1825 and the street is so narrow that two cars a car cannot come onto spring hill with the traffic coming out of dollar general.

The rain runoff from the building behind us is going to cause more flooding in our neighborhood, and we do not want we don't want our streets opened up to more crime because if you open our streets up, it's going to give criminals more ways to get in and out, to case our properties, to case our homes.

And that's not what we want.

I also have pictures that shows how narrow the streets are, and with our streets being so narrow, because several people a lot of people in the neighborhood have travel trailers.

Myself, I have a Ram 3500 dually.

There's several of them in the neighborhood.

My truck, from outside mirror to outside mirror is nine foot three inches.

We're at eighteen six right there.

One truck is going to have to pull off in the ditch.

There's no way around it.

The Honda CRV is seven foot two inches wide.

A Chevrolet half ton pun is seven feet eight inches wide.

With streets 16, 18 feet, that's not very much room for any kind of vehicle to be meeting.

We're used to it because we've lived there all these years, but our roads are long straight of ways.

There's going to be people flying 50, 60 miles an hour.

When there's a bad accident, who's going to be responsible?

Because we don't want our streets opened up to cause this.

Thank you.

>> Mayor Adler: Thank you.

[Applause]

The next speaker is Robert Bohn.



Hi.

>> Hi.

I'm here for Robert Bayne.

He had to leave with a medical emergency with his wife.

I have his words if I could present them.

Yes?

>> Mayor Adler: Yes, please.

>> Okay.

He starts out, he says my name is Robert Bayne but anyway, he's lived in spring hill village for 43 years. And at that time there were 300 people in the area, and had good City of Austin water, acre lots, and room for kids to apply outside.

Improvements have been asphalt overlay of the 16 to 20 foot wide caliche streets and installation of street signs.

And he says, this is from Mr. Bayne: I'm here today to voice support for the zoning and planning commission's 9:00 to 2:00 vote on the Finley company's rezoning request that was that has an overlay to install crash gates that prevent vehicular access, that allows pedestrian, bike, and emergency access on four streets that line up with the four in our spring hill village subdivision.

The Finley company's request for a zoning change met all requirements and codes that you require today, including the provision to comply with the national complete streets initiative.

So to force this initiative on our subdivision created and platted in the '50s, in Travis County, in Austin's ETJ, creates issues that would probably require a bond proposal by the City of Austin or by Travis County to enable our subdivision to comply.

Mitigation creates only a patch, as did the sidewalk the county built along Vincent and Delahunty lane in our subdivision to handle a request by the residents of Sarah's creek.

Traffic congestion on these streets, these two streets, with parents driving kids to school along with all the kids walking and biking to school, and parents walking kids to school is quite dangerous.

The Finley company and our residents support the zoning and planning commission's recommendation.

Travis County also agrees with the recommendation, as documented by an e mail on September 11th, 2005, from David Greer, that is contained in the backup additional comments for this agenda item and that reads, David Greer says, within quotes: Travis County feels strongly that this subdivision should not connect to the local county roadways, as the existing county roadways are not sufficient in width, only 18 inches wide, with no curb and gutter, bar ditches, and have no sidewalks.

We feel any additional cut through traffic would be unsafe and not recommended.

We would recommend emergency access gates only.

There has been some discussion

[Buzzing sounds]

>> Can I just finish this?

>> Mayor Adler: You can finish your thought.

>> With traffic mitigation and inclusion of sidewalks are approved, but after some discussion, the county does not feel that the City will take adequate measures to ensure such improvements could be completed to everyone's satisfaction, and that the only acceptable, safe, and reasonable solution is to not allow access to the local county roadways.

>> Mayor Adler: Thank you very much.

>> Thank you.

[Applause]

>> Mayor Adler: Those are all the speakers that we have.

We're back now to the to the dais.

Yes.



Sorry.

>> Thank you.

Michael Whellan on behalf of the Finleys.

First I wanted to make sure that e mail from David Greer was 2015, she just misstated, it just came from the County in September.

I also want to be clear that the proposal, not a compromise, but proposal from staff was just was just presented this week, and the owner's position remains the same.

We're with the neighbors, and what they want to do here, and and not with the staff.

I didn't want that to be left as being as if we were supporting a compromise.

We are with the neighbors, solid, in terms of their desires given the substandard roadway system that exists there, and the fact you can make a right onto wells branch and use tarton excuse me Tacon lane to go back through, so the connectivity exists that way already.

>> Mayor Adler: Ms. Pool, did you want to make a motion?

>> Pool: I'd like to, I guess, move on first reading to approve I haven't talked this through with the neighbors.

Based on what Mr. Whellan just told me, I was going to move approval with the one connection as the compromise that staff had worked up, and then I guess we can work together between now and the second and third readings to try to come to some accommodation.

I think that the staff has moved more in the direction of the neighbors and the developer over the last month or so.

Did you have something, Mr. Linseisen.

>> I would just ask that you move to close the public hearing.

>> Pool: Yes, I move to close public hearing.

>> Mayor Adler: Moved and seconded.

Those in favor, raise your hand.

Those opposed?

I think we're all in favor, Ms. Houston off the dais.

>> Pool: I would move on first reading to then have additional conversations with Mr. Whellan and the developer and the neighbors with staff to see if we can come to an amicable agreement for second and third reading.

>> Zimmerman: I'll second that motion.

>> Mayor Adler: Mr. Zimmerman seconds.

First reading is having one street cut through, it's having the right of way on the other three to the property line, but with crash gate or whatever, but allowing for pedestrian and bicycle access?

>> And I'm with the neighbors on preferring the Bollards.

I think staff has tried to talk me out of gates into gates when I like Bollards better.

I have said that many times.

I'm not keen on gates.

I think that they send the wrong message so we're sort of at an impasse with staff.

They seem not to be able to help us move in a direction other than a gate, so I'm hanging on a cliff on that one, too.

We will try to find a different way to block the access, but it's we're in a really tough spot here with the county and the condition of those roads.

>> Mayor Adler: Okay.

It's been moved and seconded.

Mr. Casar?

>> Casar: I have a question, both for transportation staff and then also for Mr. Guernsey, briefly.

This is to get your blood pumping, too.



Mr. Guernsey, my question really, briefly, is, we were supposed to make zoning decisions with the comprehensive plan in mind, and this being, especially seeing the video, really kind of almost at the edge of a rural area, sort of sprawl development.

Can you talk me through sort of why y'all I'm not saying that it's not, but just if you could help me at this hour justify how this works within our comprehensive plan.

>> Well, it provides for the connections that you have to that elementary school that's on the north.

I think the street that was referenced, they were

>> Casar: I don't mean about the streets, I mean approving the development.

>> Oh.

The zoning is appropriate for this area.

It does provide for additional housing opportunities.

There is some retail that's closer to the street system.

I don't know if Imagine Austin really denotes any kind of neighborhood center or town center in this particular area, but providing for more housing options, it is within the city.

There is available water service.

Certainly we think that housing is appropriate in this area.

>> Casar: Okay.

Thanks.

And so my question is, now having seen the conditions of the streets and the width of those streets, I know that the department you've got really, really talented folks at your department, and so I wouldn't imagine that they would recommend anything unsafe, but your initial recommendation stands as connecting all all of those streets.

Is that is that right?

Or have I gotten it confused here in the course of the case?

>> We're in alignment with Mr. Linseisen and the recommendation.

We were aware of the conditions of the street in the subdivision.

We feel that that's a reasonable compromise.

>> Casar: Okay.

Thank you.

So just one, you feel like is now a reasonable place to be

>> One, and then the one to the east, to the potential School District site.

>> Casar: Okay.

Thank you.

>> Mayor Adler: Any further discussion?

Ms. Tovo.

>> Tovo: Sorry, I need to clarify that last point that Mr. Jera mentioned.

So you are comfortable with the compromise of one street, in addition to the one that will run to the school site?

>> Yes.

>> Tovo: Okay.

>> Pool: Let's name the streets.

So spring hill to the west to the north, rather, and Heatherwilde, connection to Heatherwilde?

Because that's the street that runs to the schools.

>> There would be a connection to the Pflugerville School District site to the east, which fronts onto Heatherwilde.

That would be

>> Pool: So this is what we will nail down in the weeks between now and second and third reading.

>> Yes.



>> Pool: Thank you.

>> Sorry.

>> Casar: Sorry, what I'm just trying to understand is when you use the word "compromised," do you mean sort of balancing the..

[10:42:47 PM]

Yes.

>> Casar: -- Connectivity and safety and that's the best thing for mobility? I just want to understand whether or not this compromises something less than what you see as the best -- the best solution or if at this point you think this is the best solution.

>> I'd say if all the streets in the subdivision were up to what we would consider the city's minimum standard, I'd say we would probably look to connect more, but one seems a compromise where we can provide the flexibility and the options for both the neighbors to the north and the new neighbors that are moving into the area.

>> Casar: So considering the reality on the ground, this is the best requested for mobility. Thank you. I just wanted to make sure that was clear for me. Thank you, sir.

>> Mayor Adler: Ms. Tovo?

>> Tovo: Yeah, councilmember Casar, I appreciate you clarifying that because we've had -- I've lost track if this is our second or our third discussion about connectivity issues today, and I appreciate knowing that staff are not recommending this as a compromise because of the diversity of opinions, but really because the -- because you agree with the community about the standard of some of the roads. But I think this is an issue like some of the other ones we've talked about today, that there's broader thinking. You know, we've got policies on the books about providing connectivity, and we're making some decisions today that are not exactly in alignment with that, but I think this solution makes sense. I just want to say it's not the first time we've had an argument -- not an argument, it's not the first time we've had testimony about connectivity leading to crime, and I wanted to just express my real concern with -- with that kind of framework, that if we open up our communities, we're allowing crime in. But I appreciate the other concerns that the neighbors have raised about the standard of the roads. Those, I think they're serious consideration.

[10:44:48 PM]

And the proposal sounds like a reasonable one.

>> Mayor Adler: I think we're probably ready to vote. Any further debate? Those in favor of the motion as proposed by councilmember pool, please raise your hand. Those opposed? That is unanimous on the dais. It's going to get us then -- the so that passes. That gets us then to item number 33. , Which is the convention center motion. I've handed out something that I intended Mr. Zimmerman to be, in essence, referral to committee that identified items to be raised as were raised by various councilmembers. Ms. Troxclair?

>> Troxclair: And I just wanted to remind you quickly that we did already talk about this in our economic opportunity committee. We were unable to come to a consensus as far as a recommendation, and I think you're amendment brings -- or follows up on the questions that we all had as part of the committee, but we did hear this in economic opportunity already.

>> Mayor Adler: Okay.

>> Mayor Adler: I would kick it off by proposing that we adopt the resolution as amended with the direction to only explore but not adopt the master plan, but also to bring back answers to the questions that are enumerated. Is there a second? Mr. Renteria seconds that motion. Any discussions? Yes, Mr. Zimmerman.

>> Zimmerman: Is this the version 5b I'm looking at here?



>> Mayor Adler: Yes.  
>> Zimmerman: Okay. Thanks.  
>> Mayor Adler: So it's been posted on the bulletin board.

[10:46:59 PM]

Yes. We have speakers. It's been seconded, moved and seconded. We'll now call speakers. David king. Is he here? Bob lander.

>> Mayor, are there less than -- four or less speakers?

>> Mayor Adler: Because it's gone to committee. There are -- there are more than that. This has already gone to committee, so we're limited to four speakers on each side.

>> David king is coming in.

>> Mayor Adler: Okay. So since this has already been to committee, we have four speakers on each side. What we have are two neutral speakers. We have two speakers to speak against and then other speakers to speak for. So we're going to limit everyone to two minutes. Mr. King, if you want to SEAK on the convention center?

>> No.

>> Mayor Adler: Okay.

[Laughter] Mr. Lander? Is he here? He's left? Is glen Meredith here? You have two minutes.

>> I speak fast. Good evening and thank you for listening to us. I'm Lynn Meredith. I've lived in Austin, Texas for 23 years and I've lived downtown for five. I'm here to speak about the convention center expansion. I really want to say that as a neighborhood, we live downtown.

[10:49:00 PM]

We're more than 10,000 people strong now, soon to be about 20,000 strong. We have no neighborhood contact team, and we hope to remedy this in the near future. We are very much in support of economic development, and we are most concerned about traffic and congestion and the safety of our pedestrians. We had an opportunity to speak, very, very briefly, we were given 24-hour notice to talk about this convention center expansion, but without any maps or any previous information. What I'd like to say is, we are not opposed to the convention center expansion. We think that it might be the greatest use for that three-block area. What we are concerned about is the lack of the traffic impact and the placement of the hotel and the way it is embedded within this plan. We are looking at a 3b plan that might make much more sense. About UT what we like about the idea is that this will be a lively area, and it will be multimodal as far as how we would get around this neighborhood and this part of our neighborhood. We really ask you to consider that this is the largest civic project that you have before you, and probably will be before you, in the next five to ten years. You have total control over this project. You don't have to talk to the state or to the county. This is your land. So we ask you you to take great consideration and take your time in thinking about this project, especially the traffic impacts.

>> Mayor Adler: Thank you. Ms. Scott, [inaudible] Or Jed bowie want to talk?

[10:51:11 PM]

Eric? Mr. Goff, you have two minutes.

>> Good evening, everyone. The motion to refer to the committee is a good one. We are opposed to the convention center expansion, which as a reminder, aura is a group of Austin chronicle readers. I'll speak to the motion as much as possible. It would be helpful, I think, to add to that an assessment of hotel room growth from '97 to 2015, which is the point of contention in the memo you received from



convention center staff. So if you could take a close look at that instead of just a last-minute memo from the convention center staff, it would be helpful. For example, one of the things that the memo stated was, there is a reputable study that shows the [inaudible] Decreases, and it goes on -- it doesn't state what the study is. It says if it was a 45% under reporting, then it would be a bigger number. It's just a really back of the envelope math that you've got in your memo. So more detailed look at that I think would be helpful for the committee because that's a key driver to understanding the future hot revenue. If, in fact, there is a significant decrease in -- in the cost -- I mean there's not a huge growth in the additional hotel occupancy that you'll have to fund the convention center expansion instead of from the additional tax. So I recommend taking a close look at that because it's a key assumption. Finally, I mean, in addition, to memo discussed things like the growth ad hoc collections from 2009 to 2016, and made the assumption the convention center was caused the growth.

[10:53:12 PM]

That's not the case. We're the live music capital of the world, not the live convention center capital of the world. In addition to the financial issues.

[Beeping] , The street is really important. I'm sure you've seen the dead Zones. That's a critical issue to making sure downtown works. Thank you.

>> Mayor Adler: Thank you.

>> Casar: Mr. Goff, would you say it's an accurate summary of your concerns that if -- that we analyze the likelihood that the expansion would be paid for entirely by the venue tax and not eat up hot throughout its life?

>> Yes, that's right. There's apparently a disagreement with this from the convention center staff but a number of you were visited from Haywood sanders who says the convention center expansion in 2002 expected a huge increase of around 180,000 room nights over the same period, but it barely increased, and the same consultant today is telling you to expect another huge increase, and so you might question whether or not the consultant was right the first time. Now, the memo that you received does dispute some of those facts, and so that's why I think it's worth digging into detail on that issue to see whether or not you can justify that assumption because it's a big core assumption to the budget expansion.

>> Casar: Thank you.

>> Mayor Adler: Thank you. Questions? Mr. Zimmerman?

>> Zimmerman: Again, we're talking about the differences between 300,000 rooms versus 185,000 rooms that we actually saw, based on that -- was it 1997?

>> Yeah, it was a '97 study that was used to justify the 2002 expansion.

>> Zimmerman: Yeah. And we didn't get anywhere close to the Numbers projected.

>> Right. And today's report that you have before you shows that one of the largest drivers for hot revenue is south by southwest. Of course that is a convention but many of it come not for the convention badge.

[10:55:15 PM]

Thousands of people come into town. So I think it's counting all of those guests as, you know, Jennings guests, when, in fact, they're there for the music.

>> We looked at the Numbers and looked like the total taxes, overall, were a lot greater than predicted, back in the '90s, but the contribution from the convention center didn't measure up. But overall the hotel taxes were amazing.



>> That's right. And another key detail is that the -- nationally, there's a trend where there's a very high occupancy across the board nationally because we're starting to recover from the great recession, and that's why we're seeing a lot of the hotel boom now, is because people have more money to spend. We're seeing growth in hotels before convention center expansion, I think that's national local trends like the density bonus that's different for residential versus hotels, people have incentive to do that, and meet that demand that already exists without the expansion.

>> Zimmerman: Okay. One of the quick things, see if you agree or not, we saw Numbers from the industry that showed huge expansions like Chicago that dramatically increased their sizes. The usage, though, hadn't kept up with the expansions.

>> That's right. I've seen that.

>> Zimmerman: You've seen that statistic too?

>> Yes. What this.

>> Zimmerman: They are cannibalizing each other's business.

>> It's the same hotels in every city.

>> Zimmerman: I think councilmember pool kind of referred to this a couple days ago, it's kind of like a ping-pong match. The hotels say give us more -- we need bigger convention space so we can fill up the hotels, then when the motels fill up, the convention center says -- they ping-pong back and forth. More hotels, more convention space, more hotels, more convention space. The taxpayers want to get off that treadmill.

>> Fair enough. Thank you so much.

>> Mayor Adler: Thank you.

[10:57:15 PM]

Next speaker will be Mickey Romer. Next speaker would be Steve Drenner. Mr. Drenner.

>> Mayor, mayor pro tem, councilmembers, I'm Steve Drenner speaking to you on behalf of the four seasons residences. As was mentioned a few minutes ago, the residences are generally in favor of the option 3b that's been discussed for the three-block area just to the west of the existing convention center. The two things that were concerning to the residents were, first of all, the lack of appreciation in the master plan for the condition of Cesar Chavez as it exists today, and with the coming development on really the entirety of Cesar Chavez, a concern that we were going to rush to judgment and be in a situation where we have gridlock on Cesar Chavez. We were pleased to see in the resolution the requirement to have a full study of that roadway for the -- for the full length of Cesar Chavez, and I think that's exactly what needs to happen. The second piece of the puzzle that was concerning, and it's a mobility issue, is the location of a hotel at San Jacinto and Cesar Chavez. But the same issues arise only on a smaller scale with the nature of a convention center hotel, problematic to be putting a hotel at that location with curb cuts either on Cesar Chavez or San Jacinto or both and the types of things with buses and cabs and so forth, you'd be losing mobility through that area and mobility along Cesar Chavez isn't just a convenience issue, it's very much a quality of life issue for the residents down there.

[10:59:46 PM]

[Buzzer sounding] Also a public safety issue for the people who live there.

>> Mayor Adler: Thank you.

>> Thank you very much.

>> Mayor Adler: Susan Summers? Brennan griffin. Those are all the speakers that we have. We're now back up to the dais. We have a motion and a

>> Mayor adler: we have a motioning and a second. Any further discussion? Mr. Casar?



>> Casar: Mr. Mayor, I'll be supporting your motion. One thing that I think would be helpful to be analyzed and I'm not sure if it's in here, is that a lot of the folks that have been supportive of the do believe that the expansion -- or potential expansion as laid out in the master plan or some other form of the expansion would be paid for entirely by the venue tax based on hotel receipts and I think that a lot of folks on the dais, myself included, would feel much more comfortable with the the expansion knowing that it's funded by venue tax that we can't use for other things. But if the venue tax doesn't come up with the receipts as expected, then would eat into our hotel tax, which we can use for lots of other things beyond venues. So I'm not sure if in the long list of things you want analyzed something like that is already in here. But if not, I could probably summarize it as a number 14.

>> Mayor Adler: Why don't you go ahead and do that so we make sure it's covered.

>> Casar: I would amend to add number 14, to analyze the financing plan and the likelihood that the venue tax will cover the cost of the expansion.

>> Mayor Adler: Okay. Any objection to number 14 being added to the amendment? Seeing none, it's added.

>> Casar: Sorry for giving you one more, Mr. Manager.

[11:01:48 PM]

>> Mayor Adler: Any further discussion? Take a videos. Those in favor of this motion with the amendment please raise your hand. Those opposed?

>> Zimmerman: Abstention.

>> Mayor Adler: Mr. Zimmerman abstains, 10-0-1 vote. That handles 33. That gets us to the str matter, which is number 78p the issue before us in 78 is the question of whether or not we should order a moratorium for one year we have a lot of speakers. Ms. Tovo, the draft I handed out, does that accurately reflect what you understand us to be doing here? Do you need another copy?

>> Tovo: I think I have three somewhere in front of me. Mayor, as I understand the changes that were in the version two, yes. Yes, they do. I think -- I think that we had some -- some degree of lack of clarity over whether the moratorium -- whether the affirmative vote in a year would be to extend the moratorium, would be necessary to extend the moratorium whether the vote in a year would be necessary to end the moratorium but I think based on fact that a previous motion to have an indefinite moratorium, yes, ma'am, I think this is consistent with the majority of my colleagues, let me say it that way. So thank you for asking that question.

>> Mayor Adler: Sure. I would then move what's been handed out and posted on the bulletin board as item 78v2 revised draft.

[11:03:50 PM]

Seconded by Mr. Casar. The incident of this is, as I think we had discussed -- my recollection is similar to mayor pro tem's, it certainly was a confusing conversation but I think what we intended to do and what this reflects is that the -- we'll do a moratorium for a year on strs, that the matter will -- this matter will come back set for the council within a year. At the end of the year after that hearing, this will expire and the moratorium on strs already over unless it is otherwise extended by the council. We have a lot of people who have signed up to speak. On the question of whether or not we should have a one-year moratorium. I think -- how do you want to handle debate on this? Discussion? Yes.

>> Troxclair: Can I just clarify.

>> Mayor Adler: Yes.



>> Troxclair: That your motion is not a moratorium on all strs but specifically str-2s for one year and it also does not apply to license renewals? Somebody who already has an str to license can renew their license within a year, but no new licenses will be issued for str type twos.

>> Mayor Adler: Both true,-says after the 23rd, and 25 [indiscernible] Short-term rental type two and I, limitation subsection we just read does not apply to an annual renewal authorized in subsection E. So, yes, I can confirm both those.

[11:05:54 PM]

Yeah.

>> Tovo: If I could just say two things about that. One is, while this -- while the language directs the city manager to set a public hearing on or before December 31, 2016, I would really urge the city manager to bring that back in enough time for to usfully deliberate to account for postponements, et cetera, and typically the council doesn't meet through the end of December so I'm comfortable with that language, as long as it's really clear that our intent is to make a decision to have an opportunity to carefully consider it and to make a decision before that moratorium expires. And then the second thing I would say is that I know this did generate a discussion on Tuesday about the relationship to the other amendment that's working its way through the planning commission. I do think I relates to that in some ways. The action we're taking today does not impact renewals. However, we did vote to support a code amendment consideration that would look at various ways of phasing out type two short-term rentals from residentially zoned areas and so that is a discussion we'll have later, but, you know, I just want to be really clear, especially for those who have been advocating for this position, we will still have that conversation about whether the future of -- whether the future of our neighborhoods will include commercial short-term rentals or not, but I think that is a discussion that we'll have hopefully soon but not necessarily tonight.

>> Mayor Adler: I think that's true. Thank you, mayor pro tem, for pointing that out. This is a real narrow issue in front of us. This was the item we all agreed we wanted to come back sooner than later so that the moratorium could be put into effect even while all the other issues were being debated and discussed, and that's what we're doing here. We have 132 minutes of speakers if -- little over two hours if we're going to do three minutes a speaker.

[11:08:02 PM]

I know that there are a the lo of people here to speak on strs -- I don't know if everyone who has signed up wants to speak on the question of whether or not we should do the one-year moratorium or not but that's the issue in front of us. Can I see a show of hands -- how many people want offend -- to speak on the question of whether or not we should do the moratorium or not? Okay, so probably about 15 to 20 people. How do you want to handle debate or discussion? Yes, Ms. Gallo.

>> Gallo: I've got a question of staff before we start the public speaking. There's been a lot of confusion with why part one had to be so specific. And I think it would be really helpful for legal if we -- do we still have legal here? Is Trish still here? She is, poor thing. I think if legal could explain -- the question is couldn't we just have a profession, line, sentence, paragraph that says couldn't we just do the moratorium, I think there was confusion as to why part one had to be included.

>> So that our city code is consistent is why this is in here. Our str regulations and then also our zoning table, so that those two line up and also, you know, as we move forward in in enforcement we want to make sure that the code is as consistent as possible. So that will help us in enforcement.



>> Gallo: I think the question was if this is a interim provision, why it couldn't be more simpler. But I think you answered that, unless somebody, when they come to talk to us would like to address that confusion.

[11:10:05 PM]

>> Mayor Adler: Right. And there was an earlier draft that relisted all of the matters, and that was taken out in in this version. So in the version we have now, the languages that been added is only the language that is underlined in part bun and two. So the actual changed words are probably less -- about 20. So the bulk of the language you're seeing here is preexisting language given the most recent amendment that has been posted and the one that's before us now. We've been set for a public hearing, so we don't have the same limitation on this matter that we ordinarily have, and after this matter we still have the parkland dedication issue in front of us. And this is such a simple issue and we've heard debate a lot on this. I'm going tow ask for how many -- stand up if you're going to speak for this matter, and then I'm going to ask the same question as against. If you're going to speak for the 1-year moratorium stand up. And if you're going to speak against it, you would please stand up. Okay. I'm going to go ahead and let the people who are here speak. I'm going to limit it to two minutes a speaker, unless there's objection from the dais. I'm going to call people's names so they can come up and speak. Speaking for this would be Kristin hottop. Is Carol statistical here? You have two minutes -- oops, you have four minutes. Thank you. And I'm going to urge everyone please keep your debate solely to the question of whether or not we should do a 1-year moratorium or not.

[11:12:08 PM]

>> Good evening. We're back. I urge you to vote in favor of this moratorium. The city needs time to review and fully evaluate the str two program. We need a tout. The data available thus far has been inconsistent and/or insufficient. We need more time to obtain information about the impact and effectiveness of council's new str code amendments, including the clustering, occupancy limits, things on their way, code's str initiatives, code stepped up their efforts and we need to give them time to catch up, the impact short-term rental twos have on the availability and affordability of housing, particularly in the core where there's the greatest housing demand, the impact str twos have on school enrollment particularly in city core, analysis of safety issues as evidenced in the breaking story regarding the dangerous age at an air b&b unit two yearsing what a dead tree fell on a tenant's head and killed him, independent third-party analysis of the str program and related issues is strongly recommended. The str two permitting suspension will not adversely affect true home sharing or str two operators. The str two permitting suspension will help to assure greater housing availability for Austin residents and a suspension will set the stage for the phase out of str twos in residential areas council approved. I'd like to quote Tom Nichols the planning commission meeting, this is the only responsible way to handle Texas' very broad grandfathering law, chapter 225 local government code, if you don't -- you're opening the door to the people filing applications while studying these issues and claiming grandfathering rights once the new rules are adopted. Let's see. Again, str twos are not residential use. The only request that I personally would have would be to remove part four of the revised amendment setting an automatic expiration date in December 2016.

[11:14:08 PM]



Part four is not needed. We already have part three which directs the city manager to set a public hearing on or before December 31, 2016, to allow council to consider the effectiveness of this ordinance and consider revisions. The moratorium is initially passed --

[ buzzer sounding ]

>> Was not intended to be automatically reinstated without an affirmative council discussion examining the results. Thank you.

>> Mayor Adler: Okay. And that's what this says at the end of the first year it expires unless by affirmative vote it's extended. Stewart Hirsch. You have two minutes, Mr. Hirsch.

>> Mayor, members of the council, I have three proposed amendments tonight. One is to make this ordinance in effect tomorrow as an emergency. You have that power. We don't want a bunch of grandfathered stuff coming in in the next ten days. The second is, if possible, to repeal tonight the advertising language that conflicts with your advertising language in the property maintenance code that allows people without licenses to advertise, stupid policy. We should get rid of it right away. And, third, if the current draft reads like I think it does, it will now allow str-2s explicitly on commercially zoned property. I want to quote tonight from the 2003 -- March 13, 2003 staff task force on gentrification in east Austin which said that we should encourage the development of smart housing rental units on non-residentially zoned property. And if the ordinance reads like I think it does, it discourages that but enables short-term rental 2s to be on commercial property in the midst of a housing crisis that seems pretty stupid.

[11:16:13 PM]

So I'm asking you to do three things, make the ordinance go into effect tomorrow morning, eliminate the advertising language, and don't allow str-2s on commercially zoned lots. Thank you very much.

>> Mayor Adler: Thank you. Is David king here?

>> Pool: Mayor, I have a question while Mr. King comes down. You said at the end of Ms. Hotop's testimony that the affirmative vote to -- could you reiterate what your statement was is this.

>> Mayor Adler: I think what the intent of this language is to say is that this moratorium will last for a year. Before this expires we will set and have a public hearing on this issue, at which time this council will evaluate it, and if it choose it's could extend the moratorium past the year in the absence of an extension by this ordinance the moratorium would end at the end of December.

>> Pool: Thanks.

>> Mayor Adler: Okay. Is Joyce shadow here? Patty sprinkle, Laurie -- two minutes you got it.

>> Kitchen: Mr. Mayor? I just had a quick question to follow up on the previous speaker's question and that has to do with effective date. At the appropriate I'm curious about the effective date being the 23rd.

>> Mayor Adler: Okay. Let's let David speak and we can ask a draft of that question.

>> Thank you, mayor, mayor pro tem, councilmembers. My name is David king I live in the zilker neighborhood and I support the previous speaker's point about making this effective immediately upon passage. And also would like to ask you to not expire the moratorium automatically but instead to require that you come back and explicitly stop it. That way you can make sure that time for these amendments that are still being begged -- they're not done yet and it may be several more months before they actually get before you and get implemented.

[11:18:23 PM]

So, you know, that way they have plenty of time to be in effect and for you to evaluate their effectiveness. So I would just ask that you change those components of the code amendment tonight,



and I do thank you for working so hard on this issue and taking this issue up, this particular moratorium up so quickly. Thank you very much.

>> Mayor Adler: Ms. Morgan, would you address the question that Ms. Kitchen asked the speaker, why this was drafted to be effective on the 23rd?

>> Sure the ordinances go into effect ten days after they're passed here and so that's the 22nd or the 23rd just for a day of ease.

>> Kitchen: Haven't we done emergency ones before that are effective immediately?

>> You can do an emergency ordinance if it's for the health and safety, if there's an immediate need for health and safety, you have to put this on the record. This would not qualify as an emergency. For example, on Sunday we did an emergency ordinance.

>> Kitchen: Yeah.

>> Mayor Adler: Okay. Continuing on, sue long. Is Lily Artale here.

>> She's on her way.

>> Mayor Adler: Is Dennis Artdale here?

>> Yes.

>> Mayor Adler: And Gregory Krips, and Sharine Fisher. You have six minutes.

>> I hope not to need that many. Mr. Mayor, mayor pro tem, councilmembers, after Tuesday, November 10 work session there seems to me to be still some significant confusion as to whether or not the ordinance that suspends the issuance of new type 2 STR licenses will do more than simply suspend type 2 STR licenses. From my view it seems clear if council approves the draft ordinance the proposed action assumes that will at a later date the council will approve some mechanism for existing type 2s to remain in residential areas and in fact will force that issue -- that condition or else existing type twos will be illegal.

[11:20:37 PM]

We -- I know that it was not clear, the clear intent of the council's original September resolution for their subsequent resolution or the -- or the subsequent resolution in October. Most of these sessions I've been here, I've listened, and I've even looked over some of the transcripts. Councilmember Kitchen expressed the following. "I do have a concern and I think I'm understanding the intent is that a whole range of options can come back to us. I'm going to be waiting to see options come back. Options, plural, I would like to point out. Councilmember Garza said, "I'm not comfortable with the conditional use permit but I'm reading this as that's an option. That might not be the final thing." Councilmember Garza, I am not very comfortable with it either. Getting a conditional use permit can be prohibitively expensive and a lot more trouble and expense for an individual STR owner than you might think. However, in my read, this is the final thing. This is the way it will be unless you explicitly state otherwise tonight. Mayor Adler suggested we have a 1-year moratorium at this point I would let things that we've done, see if they could work and see if they get us to where it is we need to go, one year, which you've already discussed. The existing license holders believe that if this ordinance is approved as written and a subsequent conditional use permit process or other mechanism is not approved for existing STR rentals then this ordinance will effectively ban all type 2 properties in Austin and a number of you are on record as really not wanting that to happen. I hope that's true. If this measure is approved as is and the council does nothing else, I ask you how can an existing type 2 owner get their license renewed if they are not a permitted use? There's some conflict here that I see. This evening I'm anxious to hear some council discussion on this topic.

[11:22:41 PM]



I feel like I'm being told we'll take care of you, existing good type 2 str owners, we'll tell you later how we're going to do that. You know, what? I -- personally I'm not really comfortable were that answer. Thank you very much.

>> Mayor Adler: Thank you. I have a question for council. Thank you. If at the end of the year this council does not extend this moratorium so that this ordinance expires, what will be the effect of the loss of the language that is in part 1 of this ordinance?

>> The code would go back to the way it was before.

>> Mayor Adler: So the words that you're adding in part 1 will disappear?

>> Correct. The way the zoning table reads right now it just identifies all short-term rentals as one and this separates it out. So if this ordinance goes away, if it expires then it would go -- the code would go back to the way it was.

>> Mayor Adler: Exactly as it is today before we pass this.

>> Provided the council doesn't make any other changes, correct.

>> Mayor Adler: In the hypothetical these were the only things that were happening. So the words that we're adding here at the beginning of part 1 then provide greater clarity but are not necessary? And if they're necessary, then I need to understand what happens if they disappear.

>> They are -- they're put in here so that we have consistence between our zoning table and the short-term rental regulations. As we enforce the code, the two aren't -- would be in sync so that there are no conflicts going forward.

>> Mayor Adler: Okay. So our table speaks to two different types -- different types of str. We refer in our ordinance to str generally, which get us to those two.

[11:24:49 PM]

What you have done by this is you say when we say str we mean these two things. But if those words went away we would be returned to the language that we have right now, that says str are permitted.

>> The zoning table, yes, says str all -- it does not distinguish between type 1, 2 or 3, just says short-term rentals are permitted and the categories that are actually listed here --

>> Mayor Adler: Right.

>> And then we have a separate set of short-term rental regulations.

>> Mayor Adler: Right.

>> Based on type one, type two, and type three.

>> Mayor Adler: Right.

>> The license requirements include information about type ones, type 2s and type 3s. So if council does not extend this ordinance and there are no further changes to the zoning categories or where they're allowed, then it would go back to the way it was.

>> Mayor Adler: And is there anything different about the application of the law the way it is now? As the way it would be -- in other words does the adding of this language in number 1 create any substantive change in our str ordinance? The zoning table it would because it does not -- the zoning table currently does not distinguish between the types, the three types of str.

>> Mayor Adler: Okay. So what I'm trying to figure out what the substantive import is of our zoning table of not distinguishing between three different types of str.

>> So the way the zoning table reads today, you could have type 1, type 2, type 3, they're permitted in all of the categories that they're -- that are actually listed here.

>> Mayor Adler: Okay.

>> So this removes type 2 as a permitted use.

>> Kitchen: I have a question.



[11:26:51 PM]

Nu Mr. Mayor?

>> Mayor Adler: Yes.

>> Casar: I have a question. So -- and it goes back to what the previous speaker was asking. So what is the effect legally of saying that -- in other words, type 2s are not in this list as a permitted use anymore.

>> Correct. If you have an existing license, though, you are allowed to continue. It would be the same if your zoning category changed.

>> Kitchen: So the fact that you have an existing license legally trumps the fact that you're not a permitted use?

>> They would essentially be a legally nonconforming use.

>> Mayor Adler: Why is it necessary to take it out as being -- it's a permitted use. We're just having a moratorium on granting new ones. Why do we need to say that it's no longer a permitted use?

>> Rationale for having it is to ensure there's consistency between the two sections of the code. If council wants to remove part 1, you can do that.

>> Kitchen: I would remove it.

>> Mayor Adler: I'm trying to figure out why we -- if what we want to do is leave strs a permitted use everywhere tomorrow that they are today except that -- or on November 24, as they are today, except that we're creating a moratorium and granting new str licenses other than renewals, do we need section 1 to do that?

>> From a consistency standpoint, that would be my recommendation.

>> Mayor Adler: But that's what I'm having trouble understanding. It -- I want it to still be a permitted use. Because it's a permitted use today, I want it to be a permitted use on November 24. I just don't want us to be able to grant anymore str licenses.

>> So if an individual is operating an str type 2 after November 23 in one of these areas and they don't have a license, so they're operating without a license but they would also be, with this change, operating in violation of the code for this time period of the zoning table.

[11:28:57 PM]

>> Mayor Adler: We want them to be violative because they don't have a license. That's the only reason we want them to be acting wrongfully. I mean, as it is today, if they're acting without a license, then they're -- they're acting wrongfully. We want to continue that. Does this do more -- this does more than that, though.

>> It would say that they would not be able to operate in these areas during the same time frame that the director doesn't have the authority to issue the license.

>> Mayor Adler: Is there a need -- do we need to say that? Do we need to add that?

>> Mayor, council, Greg Guernsey, planning and zoning department. It may help basically someone property, making improvements to the property and then coming down and asking the city for a permit for which they could not receive one. So I think it would help in the interim period by putting people on notice that this use, although it may be permitted, because they already have one, might stop someone from inadvertently making investments and spending time trying to create a new short-term rental 2 for which a permit could not be issued for the period of during the moratorium. When the moratorium would end, then that would come back into the code and it would be clear that someone could come in, buy property, make the investment in the property and have the understanding that the use is permitted and then they can also receive a permit. So I think what the attempt is in the ordinance is just to make sure that everyone understands that if you come in, just because it's on my permitted use table, under zoning, there's not this heightened anticipation that they can make an investment in land



and building and start going ahead with improvements and then go file for the permit, that that does not happen.

[11:30:57 PM]

They're still protected as a nonconforming use for those that already have that use established.

>> Mayor Adler: So six months from now someone moves into town who hasn't been here and has a piece of property and he's looking at the table to see what permitted uses are, he will see short-term rental type 2 rental as a permed use.

>> Right.

>> Mayor Adler: And that pepper, you're suggesting, may or may not know that they can't get a license because there's a moratorium in place.

>> That's correct.

>> Mayor Adler: What you're suggesting is, so as to avoid confusion, we take it out of the permitted use list since because they can't get permitted over this year, we -- we want them to know that both from knowing about the permitting process and also looking at the permitted use table?

>> Yes, mayor.

>> Kitchen: Mr. Mayor.

>> Mayor Adler: Yes, Ms. Kitchen.

>> Kitchen: If we feel like that's important, then we could add language to this that says except for, except for existing. Because the problem is -- I understand -- I understand what you're getting at, but then you've put it over on the other side. So because this sounds like someone who has a permit right now is operating without a permitted use. And I know that's not the intent, but that's what it sounds like, reading the way it is. So I would be inclined to take this out or add some additional language that makes it clear.

>> Mayor Adler: I think that's valid. There are things that happen to nonconforming uses that we -- this is not a nonconforming use. It's a conforming use. It's permitted. It's a permitted conforming use for the purpose of the year. And there are situations in our code where conforming use would be treated differently than nonconforming use if certain things happen.

[11:32:58 PM]

And we don't want those caught up in that. So how do we change this?

>> I think you end up putting back and then suggesting look at language -- put people on notice so it's clear that there's a time period for which they could not -- I guess get that permit.

>> Mayor Adler: I wouldn't mind if administratively in the permitting table if you wanted to put an asterisk next to short-term rental type 2 for the year to say even though it's listed here as a permitted use you can't get a permit for it over the course of this year. You could do is that administratively when you do your tables. Okay. Ms. Morgan has suggested that they work on this for a little bit while we continue with speakers. Yes, Ms. Troxclair.

>> Troxclair: And I know that you're talking about zoning tables, which is in a different place, but it is clear in section 8, part two, section, that we are not -- the city will not be issuing license -- a new license to operate a short-term rental 2. So that would be another place if somebody was going to research creating a short-term rental type 2 rental that they would be able to see that in the ordinance.

>> Mayor Adler: Ms. Tovo.

>> Tovo: I would say the same is true, though, of those who are operating now and might need to renew because the ordinance now also indicates that for those who have a -- that it would not impact renewals. And so I guess I'm -- I think there's a real value of making sure that when people look at this



zoning table they don't see that short-term rentals are permitted use so I would also ask the staff to consider, again, the opposite of having it be not listed but having an asterisk in the place where it would otherwise have a P and indicate at the bottom that it -- you know, it is currently under moratorium. I think there's no -- you know, we don't know what will happen in a year, whether the council will vote to extend it or not so I would rather error on the side of giving people proper notice that this is not a permitted use for this next year and it may not be a permitted use again.

[11:35:17 PM]

>> Mayor Adler: Okay. Next speaker that we have is -- I'm not sure where I left off. Let's call up Nancy Griffith. Hi. You have two minutes.

>> Thank you. My name is Nancy Jane Griffith and I live in district 10 on Mesa drive. I ask you support councilmember tovo's recommendation on str twos. Having moved two doors from a party house I personally know the disruption and detriment to our neighborhood. Str twos do not belong in residential neighborhoods. Please remember what makes this city great. It's homes, families and schools, not commercial rental properties. With the growth of Austin str 2s are becoming more of an issue and I truly believe they will not make Austin the city both neighborhoods and austinites will welcome. Thank you again for your consideration.

>> Mayor Adler: Okay. Lynn Meredith is speaking.

[ Applause ]

>> Mayor Adler: Lynn Meredith. Next witness is alexer Daisley, Malcolm Yates, Sylvia Casper, Jonathan bard.

>> Okay, sir.

>> My name is Malcolm Yates. I'm the chair of the east Riverside neighborhood planning process contact team. I'm here tonight to ask you to please support the moratorium.

[11:37:18 PM]

City council and the citizens of Austin need more time to discuss this very complex and important issue. Therefore, please support the immediate moratorium on new type 2 strs and to so new ordinances can be studied sufficiently and then enacted. Thank you.

>> Mayor Adler: Thank you.

[ Applause ]

>> Mayor Adler: Sylvia Casper. Jonathan -- Sylvia Casper.

>> I'll speak very fast.

>> Mayor Adler: That's okay.

>> Thank you, mayor Adler, mayor pro tem tovo, and council. My name is Sylvia and my husband and I have owned our home on cat mountain drive for 21 years. The str 2 next door was allowed a permit thanks to a loophole look an occupancy of 27. Go figure. I've been living next to this thing for six months. Some of you on council mentioned deed restrictions or hoas should take care of violations. It's not as easy as you think and places a hardship on homeowners that have to deal with this. I am in the middle of a suit and cannot tell my situation but I can attest this situation placed on my entire family and neighborhood is a horrible daily reminder and stress. I'd read another letter from my neighbor, she has four young children who attend our local elementary school. In may 2 doors down from us a house was bought with the express purpose of rent to go out-of-towners every weekend or bought to be used as a hotel. When the house went on the market I was quite excited hoping a family would move into our lovely neighborhood. Imagine my dismay when instead a hotel moved in with drunken renters stumbling



through our yards in the middle of the night. Ness not what I imagined my children growing up to when I bought my home.

[11:39:19 PM]

Now every time a house goes on the market I worry is it going to be a family or hotel? Will we have children or revolving door? I worry are my neighbors going to move. Is this what we want for our neighborhoods this is not sixth street. Young families, this is my words, long-term residents and retirees are worried about the house in the neighborhood that has gone into estate care or the newly bought house undergoing renovation, all have the potential to become the next str 2 as investors who have no other vested interest in the character of our neighborhood, only want to market these hotels because the care of those who actually live here have made it how request we neighbors not worry where and who is going to be hit next? All who plan to live in our homes in the city deserve to live in peace. We ask you from cat mountain and cat mountain cove to please pass the moratorium and the suspension of new str 2 permits so that way the city can figure this thing out.

>> Mayor Adler: Thank you.

>> Thank you.

>> Mayor Adler: Thank you.

[ Applause ]

>> Brad Johnson -- sorry, Jonathan bard.

>> Gallo: Mayor I could mention something as they're coming up? Do you want to call the other people up? Anyone else.

>> Mayor Adler: Katurahavey.

>> Gallo: I wanted to say thank you to the cat mountain and Mesa neighbors. I would say through their persistence, they certainly have encouraged the owner of the properties that have been one of the biggest violators from the standpoint of number of outputs to put their -- occupants to put their house on the market for sale so thank you very much for your activity and persistence in helping move that forward.

>> Mayor Adler: Ryan is on deck if you want to come to the other podium. You have two minutes.

>> On that same note, we're already taking care of the bad actors or putting a moratorium, what is it going to do, really solve informal if the party houses already have a license, they can keep their license.

[11:41:19 PM]

So you're not really solving anything and I'm trying to figure out what is the agenda behind this? And I understand I wouldn't want to live next to a party house either but I think those are anecdotes. There's 364 and 12 bad ones why are we putting a blanket on all of them? That doesn't solve the problem. That's just to start off. I also think like that, again, it's an enhe can dote I could tell you why my str is worthy, and I am a neighbor, I stay there who have been my home is rented. My teenage daughter stays there. I want to make sure it's a safe place and I like my neighbors. I am a neighbor there. I keep my house very well so we all enjoy going there. It's a peaceful place. I think there's many reasons why we have str 2s. I think the one of the Numbers was we all live within 3 miles of our str 2. We are neighbors. I am a neighbor. I think another idea to help with str 2s instead of a moratorium is if you have an str 2 you should have a homestead in Austin because then you're invested in Austin, the neighborhoods, in what's going on. We're also -- we are an event city, south by southwest, all the hotels are already booked already. What are you going to do? There's talk of south by southwest moving and maybe some would be happy with that but it is what's keeping our city functioning and doing very well. We weren't hit by the recession. We were doing well. It's because of the local businesses, because when we have renters



come to our short-term rentals we recommend the local businesses so it helps keep our city flourished but, again, this moratorium, what is it something to I think this the last three years we've had maybe 20 licenses for str 2s come up.

[Buzzer sounding]

>> So thank you.

>> Mayor Adler: Thank you.

[ Applause ]

>> Mayor, council, thank you for your time tonight, my name is Ryan I'm a resident of district 10 and I urge you to vote in favor of the suspension.

[11:43:27 PM]

I want to address the myth of 12 bad actors this was propagated by an alliance report that released on data from code service database. A key problem with their methodology was that the Ara only requested data on a specific lice of addresses which I know do not include all operating short-term rentals. I know this because I requested and reviewed the same data set and the licensed str 2 next door to me was not on the list. Also this list does not include any of the addresses of unlicensed strs of which we know there are at least hundreds and maybe thousands. Furthermore it's been well documented that the code's database desk not include calls made directly to A.P.D. Nor does it include many calls made to 311 and transferred to A.P.D., which are the bulk of calls made afterhours such as noise complaints. I've made more than five calls to 311 regarding the 311 which should be enough to make the bad actor list but even if the str had been on the list it might still not have qualified because many of the calls were made in the middle of the night and transferred to A.P.D. Unlicensed str 2s are bad actors. And they're definitely more than 12. At last check there were 1,252 licensed strs in Austin. If you grow to home ways website you'll fine 1,769 listings that means at a minimum there are 427 properties being actively marketed not licensed around the city. That's 25%, approximately 75% of the Austin listings on air b&b are unlicensed. This is why we need the suspension. To get the city's proposed reforms on the books and to ensure code can enforce them and shut down strs operating illegally. But if nothing with code's database changes we're losing out on an opportunity to do some analysis. The city should consider getting an independent party involved with its own tools to analyze and track this data and give us more reliable information. Austin it shouldn't be hard to find someone help.

[11:45:28 PM]

[ Buzzer sounding ]

>> Providing some of their data to the city.

>> Mayor Adler: Thank you.

>> That is enforceable. Thank you.

>> Mayor Adler: Thank you very much.

[ Applause ]

>> Mayor Adler: Next speaker is syrena and then

[indiscernible] Would come to the other podium.

>> Thank you, good evening. So we're here to oppose the ordinance for the suspension. So we wanted to talk about three things. One is our background, our relationship to the neighborhood and the third, this ordinance. So Otis and I have lived in Austin 15 years. We call this home. And we are self-employed, which comes with things such as an income source that's not steady, right? So we recently just a few weeks ago we looked at various properties and found one and we were hoping to use this for -- as a short-term rental just to keep our income steady throughout the year. So we are not in the middle of a



residential neighborhood. We're next to local businesses. So that's number 1. Number 2 is our rich to the neighborhood -- relationship to the they'd be. We've spoken to the neighbors, let them know about our str plans. They're not opposed to it. The second thing is we deeply care about our neighbors. In fact we're hosting an artist for the next two weekends as part of east because she lost her studio and needed a place to display her work and we're doing that for free. All this to say we're not trying to exemployed the neighborhood as much as -- as much as make a living yet caring for our neighbors. The third thing really is what is this moratorium really accomplish? Like everybody here on both sides of this debate, we don't want bad actors as well.

[11:47:29 PM]

One focus on -- why not focus on enforcement rather than shut the door on us at this point? As you know, if you make something difficult or illegal and there's a demand out there, people will still do it. Just under the hood. So I urge you to oppose this moratorium. Thank you.

>> Mike Paulson will be on deck.

>> Councilmembers, mayor, my name is Otis Patel, friend and business partner of the gentleman who spoke just a minute ago. We're here to oppose the moratorium. I think besides the complication of the language and issues brought up by others earlier for both sides of the issue, I would urge the council to consider the actual pragmatic implications of the moratorium. What I mean by that is as he' lewded to just a second ago, there's clearly sufficient demand. I think a previous speaker mentioned we're an event city. Naz a reality -- that's a reality we have to deal with. In a economy outright banning the supply side, I'm sorry doing so just kind of forces good people to do things that they may not want to do, right? Outside of regulation -- and it's actually going to be to the december-detriment of data quality and impact assessment efforts, right? A previous speakers mentioned that, hey, 25% of listings on a given site are not -- do not have a permit or license. That tells me that it's going to be extremely difficult to get data on the -- that 25% of the properties. To me I feel like a more prudent course of action would be to allow good tax-paying citizens to participate in the changing sharing economy and I would echo my partner's suggestion of focusing on important -- enforcement and you know what?

[11:49:37 PM]

It probably makes sense to reach out to the focuses in the sharing economy, whether air b&b, home away, whatever you have, and work with them to get data, get the data you need, properly understand the impacts, and use data to drive policy. If you for your time. I appreciate your consideration.

>> Mayor Adler: Thank you very much. Kevin gilean. Move to this podium, sir.

>> Hello. Mime Paulson, cat mountain drive. I'm in favor of having the moratorium implemented as soon as possible. As you discussed earlier. Some data with the growth of the type 2 -- I think the type 2 has the most potential damage to the citizens of Austin. I've seen it first hand. 2012, you added 43 properties to the stable of str 2s. 2013 you added 97. 2014, you added 121. 2015 you added 136 as of November 1. So this is a hot market. There is a lot of money here to be made for investors. Realtors tell me that investors from Europe, from Asia, China, various places are calling in just trying to get a piece of the action. The returns that you can expect on at least the high end of the str type twos, let's say a half million dollar home or above, you can expect to get 10% to 20% return on your investment. That's even better than junk bonds so it's a very attractive market. And the owners, they feel they are protected by the city of Austin, and actually I think they are, to a large degree, because we license them, we seem to have this model where we say it's okay, we want you to do this. We have this 3% -- the 3% cap is misleading. You can look at that and if you associate seven -- six or seven adjacent neighbors with those Numbers that are being negatively impacted, that's very material.



[11:51:49 PM]

I discovered this in May of this year, and I can pass on -- if anybody wants advice on what an str type 2 experience will do, I'd say there's two things are going to happen, happened to my wife and I. Your blood pressure is going to go up, it's going to increase, and your home's property value will decrease.

[ Buzzer sounding ]

>> Mayor Adler: Thank you.

>> Thank you.

[ Applause ]

>> Mayor Adler: Stephanie Bradley will be on that podium. Stephanie. You're intestine.

>> Yes, sir.

>> Stephanie Bradley, come over here, please. Sir.

>> Ready. Mayor pro tem and city council, I would like to just ask you to support the moratorium on the str 2s. It gives you time to work through some of the reforms that have already been proposed. The focus on improving enforcement and implementation of new regulations is something to consider as well as analyzing better data to determine the impact. But also I just -- I hear a lot about this sharing economy phrase, which, frankly, reminds me of compassionate conservatism in the assistance it's really just about sense that it's about people who call themselves Progressives but don't want to be regulated in their own backward yard. In my neighborhood, Dr. Dave shares his lawn mower, another watches my son, several came to my aid when I broke my collarbone on a skateboard, Chris and I share cold beer, I officiated my next-door neighbor's wedding, our kids share leg goes and laughter, Mark gives us advice about our cars. None of these things are shared by the commercial str. Instead they share litter, traffic, noise, drunken strangers at night.

[11:53:53 PM]

None of these things are good, which is why I prefer neighbors and not hotels in my neighborhood.

Thank you.

[ Applause ]

>> Mayor Adler: Carol Thomas, please.

>> I'm Stephanie Bradley. I've been an artist and musician here in Austin and a realtor and invest for 33 years, since 1983. Back then we used to sell paintings every at the Palmer Auditorium to the delionaires. Recently there was a economic downturn in the clubs when the band would play and we made less money so we reinvented ourselves and we became short-term renter managers. The management that goes on in a short-term rental is actually more intense than management that goes on in any long-term rentals where people rent six months to a year to two to four years. They get relaxed. They don't maintain the yard. There's barking dogs, there's odor, there's loud music. All that goes on with long-term rentals but short-term rentals aye has a larger, more often turnover so we go in to maintain the property more, clean the property more often. We get to check our property if there's somebody doing damages, well, they're out thereof pretty quickly. So we're on it. We're on top of it. There's the saying in the music industry, if you give somebody a job, don't take it away from them. Let them play the gig. And if they don't play the gig well, then talk to them get them some training. Teach them how to be good neighbors if they're not good neighbors because there's plenty of bad neighbors that aren't short-term rentals. Okay? So we could address those problems too. You know, we could address our street corners and our bad neighbors. So I personally witness, you know, a inventor who came into the Hyde Park neighborhood and he took over some substandard buildings and he painted a beautiful mural on the



coffer and lock building at five first street and I-35 and now there's short-term rentals there and there's no more bums sleeping under the staircase.

[11:56:13 PM]

[ Buzzer sounding ] And young sports groups are coming in there with a place to stay with their church groups. So it's --

>> Mayor Adler: Thank you.

>> It's a good thing too. Please don't take it away.

>> Mayor Adler: Thank you.

>> Thank you.

>> Mayor Adler: Mary shred, move to this podium please.

>> Good evening mayor, mayor pro tem, councilmembers and esteemed city staff, Phil Thomas, district 3, east town lake citizens neighborhood sobers preservation chair. East town lake citizens neighborhood association, a voice for central east Austin residents since 1974, urges this council to that is moratorium tonight. In 2012 the short-term rental industry was given cart launch to operate in in Austin. Three years on Austin has had ample time to assess the effects of the 2012 ordinance and the general consensus is the ordinance needs modification. With the ped lum of fairness pointed it at the industry, the more base side of behavior began to take root in zoning where it had been forbidden before and for good reason, as we now know. If this council votes to move the pen due lum towards the center where relief for folks in financial straits coexist with relief for homeowners and long-term renters so they can enjoy the peace that comes with proven, thoughtful zoning protections, it will burnish this council's reputation for fairness and wisdom. Thank you very much for your service.

[ Applause ]

>> Mayor Adler: Thank you. Nu Ashley young, move to that -- you're confusing peopling. You can speak. The next speaker coming up will be Ashley Deyoung.

[11:58:15 PM]

Okay? Thank you.

>> Council, thank you for your time. I would like to -- I would like to suggest that part 1 of this be removed. I do think that a moratorium would be good and I would love to see statistical analysis of what's going on with str 2s because I think as an str 2 owner we're being blamed for a lot of problems this we're not causing but part 1 gives me great concern. I serve my neighborhood as an officer on the neighborhood association, and when things aren't a permitted use, it gets complicated pretty fast. And I'm concerned that this is going to create problems for people who are -- who are currently operating legally and who are paying taxes. I also wanted to point out, of the 12 bad actors, three of them have already put themselves out of business. So even just the things that code enforcement is doing now are working. I think the pace program is working. I would like to see these things have more time and I would like to see metrics around what is success in this program. Str2s aren't disruptive to neighbors. Furnished rentals in neighborhoods are a really great asset. There's people who are getting divorced who need a place to story. There's people remodeling their house who need a place to stay. I think those belong in residential areas, making it possible to have a short-term rental in a commercial area makes no sense if you can't have a long-term rental in the same place, or residents in a commercial space. It doesn't make sense. There's a reason why we keep residential uses in residential areas. So thank you so much.

>> Mayor Adler: Thank you.

[ Applause ]



>> Mayor Adler: Then jay Reynolds. Stewart Hampton will be at the other podium.

[12:00:18 AM]

Yes, sir.

>> Thank you very much, council and mayor. I also would like to second Mary shredd with regards to the opposition to section 1. This is really -- it's just sticky language that gets down the road and it's easy to twist and it's easy to turn and it's just dangerous for what I think you're actually trying to do. So I would scratch that altogether. That being said, I do support the moratorium, although I don't think it's going to do any good because there is people doing this illegally and this isn't going to stop them. This isn't going to do anything to stop anybody that's not doing the right thing. And it's only going to stop people who want to do the right thing, which, you know, I'll support it because I think it would be good to get the info but I don't think it's really helpful. Just lighting the fire under code over the last couple months has made a big difference already even with no additional changes to the existing ordinance, so I think you should consider this when you're talking about the 22 items that we've passed relation to the short-term rentals so far. Just getting code going has done pretty much everything that we wanted to do, and we're really thrilled to see the three bad actors go away. We've got the two in councilmember Gallo's district that, you know, we've all -- collectively, we feel great about that. The one in zilker that's on peach tree, that one's, I think, the one for sale pretty soon so we can cross that one off the list as one of the bad actors. These are, you know, very, very big steps for us as the Austin rental alliance moving forward and we thank you for your help with that. We look forward to this going forward. Thank you.

>> Mayor Adler: Thank you. Kay Humphreys will be at this podium.

[12:02:19 AM]

Sir.

>> Mayor, mayor pro tem, councilmembers, my name is Stewart Hampton. I've been in the Bouldin creek neighborhood for 22 years, despite the accent. I just want to say as a former city board member, I have great sympathy for all of you up there right now because I know what it's like, when each hour passes and you're still there. So just hang in there a few more minutes. I won't burden with you a lot more information, other than to say that because of encroachments of commercial uses that's rapidly grown over the last several years, within residentially zoned communities, that this moratorium is a very wise policy, and I'm glad you're taking it. Thank you.

>> Mayor Adler: Thank you.

[Applause]

>> Mayor Adler: Jessica newif he would will be here.

>> My name is Kay Humphreys. Austin has been promoting high inner city residential density opportunities and affordability. The mayor had a goal of having all veterans have a home by veterans day. I'm not saying that veterans would be renting type 2 strs, but it's the domino effect. Type 2 strs are removing housing, and so the people that used to live here live here, and the people that used to live here live here, and it's a domino I can't. We're destroying our neighborhoods, we're destroying the whole -- the whole reason Austin is a wonderful place to be. Type 2s encourage reduction in single families to a great degree, they allow commercial endeavors in single-family zoning. You know, the woman, 27 in one house, you know, it's -- for me it's not about the bad actors, it's about the basis of allowing a commercial endeavor in a single-family neighborhood.

[12:04:39 AM]



[Applause] You're replacing portions of valuable sf-3 neighborhoods where families live with tourists. I mean, what is Austin if it's not the families that live here? Please don't sell out the heart and soul of our neighborhoods and our families and replace them -- I mean even if they behave well. I'm not against people coming for south by southwest or -- well, formula one, or --

[laughter] Did I say that? Or ahl, but that's not the kind of strs that I'm objecting to.

[Buzzer sounding] It's the ones that are strs, 360 days a year. Thank you.

>> Mayor Adler: Thank you.

[Applause] Rivers Ledesma should move to that podium, please.

>> Council and mayor, thank you very much. My name is Jessica new Feld. I live in district 10 and I want to ask you to support the suspension of type 2 licenses for a year. I would ask that you pass it as soon as possible. I think it's an excellent thing to do while you all are working through a whole bunch, 22 other reforms to revise how strs are regulated in Austin. I also think it will be a great thing to allow time for city code to work on and enforce whatever it is that you pass, get better at enforcing what's already on the books, and also give us an opportunity to step back, stop growth of non-interoccupied short-term rentals and examine their impact more close. I would like to point out, too, that if this doesn't affect true home sharing. If you live in your home and you have a type 1 str, you are allowed to continue to operate, and people who want to obtain those licenses during this time are allowed to do so. So it encourages legal home sharing, true home sharing.

[12:06:44 AM]

A couple things that were mentioned that I wanted to echo is the idea of a third-party consultant. We know that code's database is a bit of a mess right now for whatever reason, and I think having somebody come in from the tech community who has those capabilities and can help us in this one year do the most that we can with analyzing this, it would be very helpful. I also would ask that you fast-track the testing -- removing the testing the waters because I know that that's a big barrier for code to shut down illegal operators. Often they say, well, they're allowed to advertise, and if we can get rid of that, I think that would make things easier. And last, I would echo councilmember tovo's request to have the hearing a year from now well in advance of December 31st, 2016. That is definitely concerning to me that we could actually have that --

[buzzer sounding]

-- On the day that it expires and be in a bit of a limbo about what to do moving forward. So thank you very much. I hope you support this extension.

>> Mayor Adler: Thank you. Stephanie ash worth. Stephanie Ashworth? And then Wayne Shipley should move to the other podium.

>> Thank you. My name is Stephanie ashwould I'm a district 10 constituent. I support the moratorium and thank you, Sheri Gallo for all she's done for us. I'm up here on behalf of Jackie hardy, who couldn't be here and asked me to read this letter for her. She supports the moratorium.

The letter reads: The house across the street from me is no longer a short-term rental. The owner has moved back to town and is now living in it. Nonetheless, when it was being rented out as an str 2, the biggest problem was lack of accountability. We experienced large parties at the house, sometimes drunk people -- drunk people throwing up outside, and lots of cars in the street. The str tenants were not held accountable for their actions. After all, they don't have to act responsibly because they are living in a day or two.

[12:08:47 AM]



When the parties got loud or when there was suspicious activity at the house, there was little we could do. I was also concerned about security issues. Basically, we had strange people coming and going in the house at all hours of the day or night without knowing who they were or what they were doing. This is not an ideal situation, especially since an elderly lady lived by herself next-door. We also have small kids on the street. The short-term rental property just did not create a situation conducive to living in a residential area. Sense the house was vacant for extended periods of time, it was a prime target for vandalism, which again is a security issue. The house was actually broken into once while vacant. At a minimum, the property owner should let the neighbors know how they can be reached when there are issues they rental house that need to be addressed. Jackie hardy. Thank you for your time.

[Applause]

>> Mayor Adler: At the other podium, we need Amanda Neff. Yes.

>> This is a -- by the way, I'm Wayne Shipley. I live in south Austin. This is a brochure about licensing for str-2s. Down at the bottom of it, it mentions a three percent cap on str-2s. That sounds like an inane number. Three percent, what's that? Next, please. Let's go to the next one, see how that's applied. That blue area there, for example -- this is a map of the south Austin neighborhood plan, it's been Ben white on the north and the, so you Westgate on the west, and south first on the east. That blue area by the three percent cap could have 27 str-2s. The red area there could have -- the western part of that red area could have 40 str-2s. The green area down at the bottom on the west side of it could have 40 str-2s.

[12:10:54 AM]

The green area to the east could have 40 more. This is not an insignificant number. If you move to the -- I don't have a map of it, but if you move to the southwest, the area around dick Nichols park could have 72 str-2s. I haven't seen all of the deed restrictions in the area but I've seen more than 50 of them, and every single one of them would be counter -- would be against having businesses in the neighborhood that are single-family zoned. I would ask you, next week, I believe next week you're going to vote on an ordinance concerning ads that would potentially affect 71,000 lots and strip the single-family zoning from those lots and allow for a secondary partly. Apartment. If you don't pass this moratorium in its entirety tonight, what's that going to do when you add that many potential str-2s and that many potential ads, and couple them together? It would be devastating to our neighborhoods and devastating to Austin. Thank you.

[Applause]

>> Mayor Adler: Thank you.

>> Mayor, city council, I'm Amanda Neff from district 10. Thank you, Sheri for the work you're doing on this. But we have a lot of work to do. We're only beginning. And I hope urge you to vote in favor of this moratorium on short-term rentals tonight. I want to paint a picture of a perfect example of why we need to do this, why the moratorium is so important. While code is here tonight, you've got constituents of Kathie tovo's district being tasked with the burden of taking photos to prove that the short-term rental across the street from them is inhabited by hotel occupants in the five units that they're running, unlicensed. And this has gone on for three months.

[12:12:56 AM]

And code continues to say, has the audacity to say, well, we need to give the owner ample time. This is not testing the waters. Testing the waters is advertising to see if you're going to get any bites. That's not actually placing hotel occupants in your short-term rental type 2. There's a violation happening, and nothing can be done about it. Nothing is being done about it while neighbors are facing this burden



tonight. So there's a lot of work to do. This is only the beginning. It's critical to stop the flood. This is a new one, this is a new example. We talk about bad actors and those happening tonight. This many good short-term rental owners who are here tonight are likely licensed and follow all the ordinances that are in place, and I admire that. We support home sharing, which is short-term rental type 1. That's where you live in your home and you rent it out. Okay. You go on vacation, you rent it out while you're there. Short-term rental type 2 is a hotel in our neighborhood. It must be stopped. I wish my son Bradley were here tonight. He probably speaks this so much more eloquently than I would. I want to address the three percent allowance of the short-term rentals in our city. Mayor, today you made a very admirable statement around housing affordable care act and the occupancy rate of 98% in Austin, and the very admirable goal of finding homes for veterans.

[Buzzer sounding] Each short-term rental on the market in our residential neighborhoods takes away potential homes from veterans and others who would live and work in our city. I thank you for your service to our city and urge you to vote for this moratorium tonight.

>> Mayor Adler: Thank you.

[Applause]

>> Mayor Adler: Those are all the speakers that we had signed up. Ms. Morgan and legal have prepared an amendment to section 1, which is going to be put up on the board here for everyone to see. It addresses the -- directly the question of making sure that the chart notes that short-term rentals for this year are subject to a moratorium.

[12:15:10 AM]

By taking out what was part 1 and putting in its place that the city code section 252-491, permitted conditional and prohibited uses, is amended to add a new footnote 17 to the short-term rental in the chart in subsection C as follows.

Footnote 17 says: Subject to limitations in section 25-2-791. That section, by the way, 25-2-791, is the section that follows in the ordinance.

>> Zimmerman: I would like to move approval of that amendment.

>> Mayor Adler: Mr. Zimmerman approves the --

>> Zimmerman: I have to make a motion to the whole thing --

>> Mayor Adler: Ms. Tovo, do you want to move the ordinance adoption?

>> Tovo: I would.

>> Mayor Adler: Is there a second to that? Ms. Gallo seconds that. And then to that, Mr. Zimmerman proposes the amendment. Is there a second to that amendment? Is there an objection to Mr. Zimmerman's amendment? Seconded by Ms. Troxclair. Is there an objection to that being added?

>> Wait. I have a question.

>> Mr. Mayor, I have a question about it.

>> Mayor Adler: Yes.

>> Is this replacing part one that's in there?

>> Yes.

>> It doesn't say that, but that's the intention.

>> Mayor Adler: It's amending part 1, of the draft ordinance, and by that, I think the drafter intended for part 1 to read as shown in its entirety.

>> All right.

>> Mayor Adler: Ms. Tovo.

>> Tovo: So number 1, part 1, is proposed to be stricken.

>> Mayor Adler: And in its place --

>> Tovo: And this language



will say: Is amended to add a new footnote 17 to short-term rental in the chart.

[12:17:14 AM]

Okay. And subsection C. Can you please direct me to what subsection C is, under 25-2-791? Okay. So that's under part 2.

>> Mayor Adler: 25-2-491.

>> That's right. Subsection 8 has the date that is the moratorium date. Yeah.

>> This is assistant city attorney. This is the chart this is subsection C of 25-2-491. It currently has a footnote 13 that addresses the vertical and the mixed use components, and now a new footnote 17 that would have, subject to the limitations in 25-2-791, which is the license requirement section, which is the portion that specifically says a director cannot issue licenses.

>> Mayor Adler: For the year.

>> Tovo: And so what will appear in each of those little boxes? A P?

>> It would -- it would look -- it would read just as it does now, just with the additional footnote.

>> Tovo: Okay. I wish people read footnotes. I think they're kind of fascinating, myself, as a former academic, but I think that is --

[laughter] I do not think that this is the clearest approach. I prefer what's in the draft, and I would support an amendment that did what I suggested, which was to have -- have it be a -- you know, slashes across with a footnote that said we're going to reevaluate this in a year, and it may become permitted use again at that point. I'm not completely understanding the concerns, if we've made it very clear in both the ordinance and in our direction here today, that if you have an existing type 2 rental, you'll be allowed to continue to use it as a type 2 rental for this next year, during this period you'll be allowed to renew it.

[12:19:27 AM]

I'm not certain why it's necessary to strike the language, so again, if we need to clarify it, I would prefer to have done the reverse. So I'm not going to support the amendment.

>> Mayor Adler: Okay.

>> And, mayor, I should say, we hear a lot, especially in this chamber, about clarity for investors, clarity for homeowners, again, I think having the use chart show that it's permitted is not our clearest path forward for this next year.

>> Mayor Adler: I don't know -- I don't know how else we would do it because it's a permitted use, and if it's not a permitted use, then it's a legally non-complying use, and our code deals with legally non-complying uses in different situations, differently than we treat a permitted use. So I recognize the need for -- to point out to people, hey, be careful, even though this is a permitted use in this category, which is why everybody who's there doing that is permitted, don't put one of these -- don't start building your property with the assumption you're going to be able to do that. So I think it needs to be left as a permitted use. If the footnote doesn't provide enough notice to -- I'd be comfortable with something else but I'm not comfortable with making it a legally non-complying use. We're continuing to discuss the amendment suggested by council. Mr. Zimmerman?

>> Zimmerman: Thank you, Mr. Mayor. I wanted to speak briefly in favor of the amendment, I agree with your concerns. I think we did want to do a moratorium, and we still, even with the moratorium, we still have the issue of policing the existing units, and for that matter, we still have some public disturbance nuisances that are owner-occupied properties.

[12:21:38 AM]



Remember that our public disturbance issue with parties and drunkenness doesn't have limited to str. I want to push ahead in solving the problem of public disturbance so I think this helps emphasize that too. I am going to support the one-year moratorium, while we look for a real solution, which is solving the public disturbance problems, which is what most of the people have complained about. So I'm going to support the amendment.

>> Kitchen: Mr. Mayor?

>> Mayor Adler: Yes, Ms. Kitchen.

>> Kitchen: I'm going to support this amendment, too. We have to solve this language somehow because the language as proposed doesn't do what we say that we're doing, and to my mind, I'm not comfortable voting for language that's not doing what we're saying it's supposed to do because later, it doesn't matter what our intent is, legally, it could be a problem. So, you know, I'm open to other kinds of fixes and I'm trying to think of one right now. I'm not sure I'm understanding the objection to the proposed fix. So if I could understand that then maybe I could propose something, but -- but do you see what I'm saying? The reason that we have to fix it is because the language doesn't do what we're saying that it's going to do, from a legal standpoint. So ...

>> Mayor Adler: Okay. Any further discussion on the amendment? Those in favor of the amendment, please raise your hand. Those opposed? Tovo voting no. Pool abstaining. The rest voting aye. We now have the moratorium. Mayor pro tem's moratorium ordinance. Any further discussion on that?

>> I have a question.

>> Mayor Adler: Yes, Ms. Garza.

>> Garza: I just want to -- is it possible to -- when's the first time we discussed this?

[12:23:45 AM]

October -- I'm just wondering if it's possible that somebody might have put in an application like the day before we discussed this, and then they're in the process that might be -- they didn't intentionally rush in to get this str 2. What's the timeline in getting an str 2 application approved?

>> Mayor Adler: Anyone at staff here can answer this question?

>> I'm just concerned that someone the day before we discuss this put their application in for an str-2 and now they could possibly not be able to finish the process because of this, and I wouldn't want to punish someone that started the process, not knowing this was going to happen.

>> Marcus, division manager with Austin code. Currently, we are experiencing a backlog in applications. We've finished the initial review of all of our applications but we have not made contact with the owners to let them know that they have missing documents to complete their applications. Yesterday during the the holiday I completed about 20 type 2 applications reviewing them for the initial review, and so the next step is going to be to reach out to those owners to let them know that they need missing documents to complete the application process. Normally, when we don't have an influx in applications, it usually takes three to five business days. With what's been going on the past several months, we've seen a dramatic increase in all types of short-term rental applications. The most significant type have been the type 2. So it has taken a little bit longer. We just completed applications that came in in October, like I said yesterday, and so we are going to have to bring in additional staff to meet the need if this does pass. So what we're looking at normally is 35 business days, but it's taken maybe a month or two to actually complete that initial review because of so many applications coming in over this month to month and a half since we've started this process.

[12:25:59 AM]



>> Garza: Okay. I guess I'm just -- I guess -- I don't know if there's a way to amend to say if we receive the application by this date, we're going to let them continue the process. So I don't know if I should make that motion.

>> Mayor Adler: Have you been able to complete the process for those that filed for applications during October? Is that what you said?

>> No, sir, we haven't. I completed an initial review to see if they had a complete application packet, and now we need to reach out to those owners and applicants to let them know what they are missing so they can get it in within the required time, if they are interested in still applying for a license.

>> Mayor Adler: Will you be able to get back to those folks, have your staff, so that folks that applied during October Lyft opportunity to have their license issued?

>> Yes, sir, we can. The only other issue that we're going to run into is if they have expired permits. If they have had expired permits that they need to resolve with the development services department, that could take longer than the time frame that's expressed in the ordinance to resolve. So if they've applied prior to, let's say if they applied in October, they've got a permitting issue that's going to take several weeks or several months, they're probably not going to be able to get that license, depending on the way the current ordinance is written, unless there is an exception to that.

>> Garza: What would they be needing a permit for?

>> They've got expired permits. Some of the applications have expired permits where they did work previous to applying for an str license or a previous owner did that, and now as part of our application process, they have to resolve those expired permits, so they -- so that basically the structure is up to code before they actually get the license. So let's say someone did a driveway and they didn't complete that permitting process to receive the final permits. Before we issue the license, we want to make sure the property is up to code.

[12:28:04 AM]

>> Garza: Okay.

>> Mayor Adler: Mr. Renteria.

>> Renteria: So what I want to know is, how are y'all going to treat the ones that -- you know, have already maxed out the limits of permits, issuing in a zone, and the ones that are pending, are they going to be told that that's it, no mas?

>> Yes, sir, they will be. And we do have several of those that I reviewed yesterday during the holiday where they've applied for a license and a census tract that's full so the call will go out to them that they won't be able to get a license at this time.

>> Renteria: Thank you.

>> Mayor Adler: Any further discussion? Mr. Casar.

>> Casar: I brought up a concern during a work session. I'm not sure if the mayor pro tem has an idea for it. I could pitch my own, that I think the intent of the moratorium was also to have a year-long review of the regulations, to have some idea about whether there has been a successful containment of the number of str type 2s, and that -- and also to review to see if the regulations we put in place do deal with some of the problems. We've seen -- I'm not sure when the other code amendments that we've initiated will be coming back, but I expect that passed like this, even if they did get passed by this council in December, that we would be rushing our evaluation of probably new measures that had been in place for significantly less than a year. And so if the intention is to have a year-long moratorium to take a look to see how our regulations worked and how well the moratorium worked, I'm not sure this goes it done. The easiest thing we could do that I would suggest is maybe having part 4, saying the ordinance doesn't expire until the next March. But up to y'all.



[12:30:13 AM]

>> Mayor?

>> Mayor Adler: Yes.

>> Councilmember Casar, thank you. You had asked that question. I think we had talked or your question, I think, toward language that would say something like or one year, you know, December 31st, 2016, or one year after adoption of the last of the short-term rental ordinance process changes, but I think your other suggestion is probably the wisest, just to come up with a date where we think we would be well past that last of the ordinance adoptions, and March seems like a good suggestion. If you made that as an amendment, I certainly would support it.

>> Mayor Adler: We could always wait until we did that, and then amend this if we wanted to at that point to coincide with the last action we were taken.

>> Casar: The reason I would bring it up now is that, as far as I can tell, we know we would have to go back and do that, so why not get it -- get it done, and maybe we get lucky and we don't have to come back and amend this because we get all the regulations passed if February or March. I mean, we know we're going to have to come back and do this because we're not going to -- so --

>> Mayor Adler: I just don't know if it's December, January, February, or March. And I don't know that it makes much difference.

>> Casar: I just don't want to put a -- I just don't want to rush us to get to a vote on this moratorium if we are just starting to get the data back on how nine or eight months of enforcement have -- I don't want to put the community in a place and the council in a place where we're just trying to figure out how the moratorium worked at the last minute. So I know I've just debated this. If somebody wants to move an amendment or somebody else wants to debate, then I'll come back and amend it to, you know, March 31st.

>> Mayor Adler: Further discussion on the mayor pro tem's ordinance?

[12:32:19 AM]

Ms. Gallo. Ms. Kitchen.

>> Kitchen: My question just was how many applications are in the pipeline in it's a follow-up on what councilmember Garza had asked.

>> Garza: And if I can ask specifically, is there a way to know how many were in the pipeline since the day before we voted on this? Do we know the day we voted on --

>> We have at this point 20 that I'm aware of for type 2, and then in our pending applications on our report that was just released this past week, there are 158 pending, and out of those, if we're going to base it on the number of type 2 applications that we currently have, which is roughly 30%, we would say 30% of maybe the 158 that are pending. But that's just a guesstimate. We can go back and get figures for you by Monday if need be, but I know based on what I reviewed yesterday during the holidays, there are 20 type 2 applications that are pending right now.

>> Garza: Okay. Then I want to make the amendment that -- it's late so I can't think of right wording, but just basically that anything -- any application that was in the pipeline as of the day before we voted on this initially, that we will let that continue through the process.

>> Mayor Adler: I think it was about September 17th when we passed the moratorium. If that's the date that this transcript -- I think you handed me a transcript that says September 17th. It sounds about right to me.

>> Garza: So any application that was in the pipeline as of September 16th would continue through the process, even if it's passed the November 23rd, would be my suggestion.



[12:34:19 AM]

>> Could I help with some language? I think if you're trying to say that the applications that are in the pipeline for short-term type 2 can go through the process, then perhaps you can just A.M. It amend it to say the director may not accept and issue a license to operate. That way we're not accepting any new licenses after September 23rd. Does that capture what you're trying to do?

>> Garza: Can you say that again?

>> So after November 23rd, 2015, the director may not accept and issue a license to operate, so if they're in the pipeline right now --

>> Garza: Well, I was trying to capture ones that might have been put there like right after we passed this, trying to get in there quickly. So I was trying to capture anything before we discussed it. And since then it's been about a month and a half, so I think -- I think the gentleman explained there's been a rush, and those are the ones I'm trying to avoid, those ones that are being pushed in at the last minute.

>> Mayor Adler: You could add language to the end of section H that says except that the director may continue to process a license application received prior to September 17th.

>> Garza: Or shall. But may is fine.

>> Mayor Adler: Except that the director --

>> Garza: Will?

>> Mayor Adler: Will, or shall, continue to process any license application received prior to September 17th.

>> Garza: Sounds good.

>> Mayor Adler: Ms. Garza makes that amendment. Is there a second to that amendment? Ms. Pool seconds that amendment. We're now discussing Ms. Garza's amendment. Ms. Gallo.

>> Gallo: So my only concern with back dating is is that we continue to talk about the predictability with what we do for the -- for our citizens, for the population, and if we had had as part of the conversation back in September that we were talking about making everything that was happening retroactive to that point, I think there would be a fairness about doing that, but my concern is that I don't know that we made that message clear.

[12:36:28 AM]

I think the message was very clear that we were going to fast-track this process and it would come back to us as quickly as possible, which, staff, you've done, and we really appreciate that, because I know that's -- it's been a -- it's been a very quick process going through legal and getting all the document -- the ordinance documentation and the wording. But I'm a little concerned that we didn't send a clear message to people that were maybe in the process of buying something or maybe in the process of moving out of town, or whatever the reason was, that we would say to them that we're going to stop it at this point, and will not issue any license. What we talked about is that we were going to do a moratorium that was going to be enacted at some point, as quickly as possible. So --

>> Mayor Adler: So do we cover that, though? I think code told us that they anticipate that they're going to be able to process all short-term rental 2 applications by November 23rd, 2015, except for those that have an open permit. Are they -- is that what you're estimating?

>> Gallo: And I guess my question would be, there probably -- they may still be processing some that -- that don't have issues with open permits, but may just have been caught in the backlog of applications that have come in over the last month or so. Would that --

>> Mayor Adler: What I read -- what I hear Ms. Garza saying is she's not limiting anybody as to what they would have thought over the last month or two, and they all -- people have known for the last month or two that this ordinance was coming back and we were going to impose the moratorium. People are



trying to get their permits approved before the moratorium comes in, and either they'll do it or they won't. What I hear Ms. Garza's amendment saying, that she's going to add some additional protection for somebody that initiated it prior to September 17th, who might have a problem with a permit or whatever, an open permit or whatever.

[12:38:39 AM]

So I don't see her amendment as doing what your fear was, that it was restricting now. I see her amendment as something that is -- that is enlarging as to a certain class of people. Everybody else is entitled to it so long as they get their permit issued before the ordinance goes into effect, which is what everybody has known for the last two months.

>> Gallo: So as long as you had your permit in by that date, then you would be protected in getting your permit, regardless of how long it would take to get through the staff process.

>> Mayor Adler: Those that were filed prior to September 17th.

>> Gallo: Prior to.

>> Mayor Adler: After September 17th, you have to get it done by the date the ordinance goes into effect, which is what we told people from the dais that day.

>> Gallo: Okay. Okay. Thank you. That helps clarify it. Thank you.

>> Mayor Adler: Okay. Do you want to address it? Do you think you'll be able to process except for the ones that have open permits, the applications you received thus far?

>> Marcus Elliott, Austin code. The only problem that we'll foresee is if we can't make contact with someone that has turned in an application. We usually reach out by the initial interaction is by e-mail. Now we're going to have to do both e-mail and phone call to verify it. If we don't get a response by that, then there's going to be probably a concern that they didn't receive a response to get their things in in a timely manner, and then we'll have to decide how to address that issue.

>> Mayor Adler: Okay. Ms. Garza makes an amendment to add some special protection for folks who have applied prior to September 17th. Is there a second to the Garza amendment?

>> I already did.

>> Mayor Adler: Ms. Pool seconds that. Is there any discussion on that? Those in favor of the Garza amendment, please raise their hand. I'm sorry, Ms. Troxclair.

>> Troxclair: Well, I support councilmember Garza's amendment and I understand what she's trying to do in protecting the people who applied in good faith before they knew anything about this conversation, but I think the point that Ms. Gallo was trying to get to was that when we talked about this on September 17th, we didn't say, you cannot apply as of today.

[12:41:02 AM]

We said you can't apply as of the time that this ordinance -- if we're going to vote on this, or we may vote -- or we intend on voting on an ordinance that would restrict your ability to apply for and receive a permit. So I think what she was trying to say is, there may there may have been people that applied between September 17th and today who fully expected that they would be able to receive their permit because we haven't passed -- we haven't officially passed this moratorium. So I mean, I'm fine to vote on councilmember Garza's amendment, and then I can make another amendment maybe if that's the cleanest way to do it. But I do think that we -- there may be some other people out there that are going to get unnecessarily caught up in -- in this.

>> Mayor Adler: So let's vote on the Garza amendment first, which is special for those people, then if someone wants to make an amendment to cover folks that filed after that they certainly can. The Garza



amendment has been moved and seconded. Those in favor of it, please raise your hand. Those opposed? Everyone on the dais. We're now back to discussing the mayor pro tem's resolution.

>> Casar: Mayor?

>> Mayor Adler: Yes.

>> Casar: I'd like to amend part 4 to have the ordinance expire on March 31st of '17.

>> Mayor Adler: Okay. Do you want to also, as part of that, change the date by which the matter comes back to the council, to be on 20 days before that or something?

>> Casar: That sounds good.

>> Mayor Adler: Okay. So Mr. Casar moves to amend part 3 to say that the setting of the public hearing has to occur in early to mid-march of 2017 and that's ordinance expires on March 31st of 2017. Is there a second to Mr. Casar's amendment?

[12:43:05 AM]

Ms. Houston. Is there a discussion on that?

>> Casar: And I would just lay out, one of the key reasons that took me to decide to support such a moratorium was the -- especially looking at other cities and some examples in our city where short-term rental type 2s can eat up our housing stock, especially affordable housing stock, I want to really have the time for us to analyze whether this moratorium is enforceable and that we can -- and that it achieves that goal. And so I want to give it time to -- I want to give it time to test it out and see if it works.

>> Mayor Adler: Okay. Further discussion on the Casar amendment? Ms. Pool and then Ms. Tovo.

>> Pool: Did you say that the new decline is March 31st 2016 or 2017?

>> Mayor Adler: 2017.

>> Pool: Okay. Thank you.

>> Mayor Adler: And that the public hearing needed to be set for early to mid-march of 2017. Ms. Tovo.

>> Tovo: And to that I would just say, I think this is a good amendment for the reasons councilmember Casar said. I think it does need to be in early March because if you start working backwards with ten days before the ordinance could go into adoption and whatnot, even 20 days out may not give us -- depending what our meeting timetable is, may not give us an opportunity for something new to go into effect before the moratorium expired, if that -- if the -- depending on what direction the council went into.

>> Mayor Adler: Okay. So instead of saying early to mid-march, its everybody okay with saying early March? Mr. Casar?

>> Casar: We can make it March 1st.

>> Mayor Adler: Okay. March 1st it is. Ms. Gallo.

>> Gallo: So here's what I'm struggling with. The discussion has been about a year moratorium, which we all wanted to do to give code enforcement a chance to implement and be aggressive about shutting down the party houses and people that were not in compliance, and we talked about bringing this issue back up in a year and talking about whether it's working or not, and that seems to be the time at which we evaluate and we discuss if we need more time at that point, we have the ability to extend it, but it seems like we're just automatically assuming that we're not going to be able to -- code is not going to be able to enforce fast enough with all the new things that will come in place over the next couple of months, to be able to give us the documentation and the experience and the examples and the data that we need to be able to see if it's effective or not.

[12:45:45 AM]



I mean, it just seems like we just keep expanding it out further and further, rather than take it up at the end, in December, like we originally talked about. Now we're changing it and extending it even further.

>> Mayor?

>> Mayor Adler: Ms. Houston, then Mr. Casar.

>> Houston: Thank you, mayor. I can see how you feel that way, but in order to get a year's worth of material, if we do it by December of 2016, the staff are going to have to stop earlier than that so they can pile all the data to be able to present it to us and we'd be able to get it. So actually we might not have but about six months of data or seven months of data because of how you have to queue it up to get it to us in a timely manner for us to make a decision before the end of December. So that's why it seems to me, if we want a year's worth of data, then we have to give staff enough time to do that, and then have time, on the other end, to be able to review that and make decisions.

>> Gallo: I just was -- the conversation to me was never a year's worth of data. The conversation to me was a year's worth of time, to let what we were doing take place, and then to evaluate at that point the success of what we were doing. Mr. Zimmerma N.

>> Zimmerman: Thank you, Mr. Mayor. I'd like the call the question, if there's a second.

>> Mayor Adler: Any further debate? We're now voting on the Casar amendment. Those in favor -- any further debate? Seeing no -- seeing no further debate, let's vote. Those in favor of the Casar amendment, raise your hand. Those opposed, Gallo and troxclair voting no, the rest voting aye, 9 to 2. We're now back to the mayor pro tem's ordinance.

[12:47:50 AM]

>> Zimmerman: Well, I wanted to call the question on the item as amended.

>> Mayor, before you begin, may I make sure that I have the amendments clear? So the first amendment is the one that was on the sheet, on the overhead, and then the second amendment was to change subsection H

to read: After November 23rd, 2015, the director may not issue a license to operate a short-term rental use as described in section 25-2-789, short-term rental type two regulations, except for an application received prior to September 18th. Because your action was on the 17th. Does that accurately reflect --

>> Mayor Adler: Except that the director shall continue to process a license filed prior to September 17th, 2016.

>> You want it before the -- before you took action?

>> Mayor Adler: Yes. Except that in addition to, those are -- those are conjunctive. Right? Or they're independent.

>> So it would read: The director may not issue a license to short-term rental use as described in that section, except for an application received prior to September 17th. It's clear for the director to not be able to issue except for those applications that he received prior to that time.

>> Mayor Adler: Yes. That's correct.

>> Okay. And for the next amendment, it would amend part 3 and direct the manager to set a hearing on or before March 21st, 2017, and it would amend part 4 that would state this ordinance expires on March 31st, 2017. Is that accurate?

[12:49:50 AM]

>> Mayor Adler: That is to set a public hearing to be held on or before March 1st.

>> Right. I have for part 3, it would be to set a public hearing on or before March 1st, 2017.

>> Mayor Adler: The question came up earlier, was that the date by which it had to be set or the date by which it had to be held. And so as to -- so there wouldn't be any confusion about that, so that you



couldn't set a hearing to be held on March 1st, to be held on March 17th, whether that date applied to set or on. So I think it might be best to say to set a public hearing to be held on or before March 1st, 2017. And then continue as you did. Okay? Ms. Troxclair.

>> Troxclair: I guess I'll go ahead and quickly make a motion to amend the language that we just passed in regards to processing licenses and just change that date to today, because I think, for honesty and transparency and clarity with the people who have been paying attention to this conversation, this is the day we're starting the moratorium. We did not start the moratorium on September 17th. So I think this is the more honest way to go about it, is to continue processing the applications that we've received and stop accepting applications today. So ...

>> Mayor Adler: Okay. Ms. Troxclair moves to change out the September 17th date to being today's date. Seconded by Ms. Gallo.

[12:51:53 AM]

Discussion on this?

>> Houston: Mayor?

>> Mayor Adler: Yes.

>> Houston: And I agree with councilmember troxclair and Gallo that we were not specific, but I know we had conversations about the Numbers of people that were going to rush to put type 2 applications in. And so -- because I think all of us expected that to happen, and so, unfortunately, we didn't say at that moment, but we had several conversations about the fact that we would rush to get these in before we actually took a vote on that. So I think people knew that, and so I don't have a problem with, as we started having those conversations publicly, so that people understood that that was a possibility of a moratorium, if they knew, in fact, that that might -- might very well happen, and so they did rush to get their applications in. Ms. Troxclair R.

>> Troxclair: And that's -- we did talk about that, and that's exactly the reason that we rushed this ordinance, today, because if we were always planning on going back and making that effective date, September 17th, then there would have been no reason for us to consider this ordinance today. We would have waited and considered this ordinance with the rest of the str issues that are still going to be in front of us, but we said we want to cut off people who are going to rush to get their applications in, so we're going to get this ordinance back to council as soon as possible, in order to initiate the moratorium. So I think this is exactly what we've -- what we talked about.

>> Mayor Adler: Ms. Tovo.

>> Tovo: I want to just make two quick points. One is that we started talking -- we've been talking about short-term rentals for months and months prior to it really coming up, even before council, because it came up in our policy work sessions as well. But our first discussion at the committee where a moratorium was being discussed by the community, as well as -- I believe it was on my amendment sheet that evening, that we didn't have an opportunity to discuss it, was August 18th. So it was a month prior to it even coming up before council.

[12:53:58 AM]

But it -- you know, what we're -- what we've heard from code, I think, is that they're going to be able to work through the applications they got, unless those are folks with some kind of problems, documents that didn't get submitted, and they're not responding to phone calls or houses that are not compliant in terms of their structures, and so, you know, it sounds to me like, one, there won't be very many, and, two, those are individuals who have other barriers to becoming short-term rentals, and, you know, if you know you're up against a deadline -- I think the community has had a lot of warning that there were



changes coming with regard to short-term rentals and that's -- you know, that's the nature of living in a municipality; things get adopted and, again, I think we heard from our staff that they're going to bring in extra staff and try to work through those applications. So I'm comfortable with the balance we struck, with councilmember Garza's.

>> Mayor Adler: Further discussion? We're now voting on the troxclair amendment. Those in favor of the troxclair amendment, please raise your hand. Gallo and troxclair. Those opposed? The rest of the council, with Zimmerman abstaining. We're now back to the mayor pro tem's ordinance. Any further discussion? Ms. Tovo?

>> Tovo: I just want to thank the staff for bringing this back so quickly. I know we had a lot of discussion at council about that, and I appreciate the work.

>> Mayor Adler: We'll take a vote. Ms. Houston.

>> Houston: Before we take that vote, do we need to be clear that we will not be doing -- taking any -- receiving any applications for short-term rentals type 2 between now and the effective date? Do we need to make that clear, or is that clear?

[12:56:02 AM]

>> The effective date of the ordinance --

>> Houston: Is the 23rd of November.

>> Correct. After that time, there will be no more --

>> Houston: But I'm saying between then, because somebody suggested we do it as an emergency. You said we couldn't do it as an emergency. So is there any way that we can say, so that it's transparent and clear, that between now and the 23rd, we will not be accepting any type 2s?

>> Mayor Adler: We could add another line to section H that says --

>> Houston: I just don't want us to get here at the same place, then we've got another rush to 15 and 20 more applications coming in between now and the 23rd.

>> Mayor Adler: If you wanted, you could add a line to H that says that in any event, the director will not accept an application for a license after November --

>> What is today?

>> Mayor Adler: Whatever today is.

>> Houston: Friday the 13th, probably, isn't it?

[Laughter]

>> We're the 13th now.

>> So I think, Trish, that we could simply say after November 13th, the director may not issue, rather than the 23rd.

>> Mayor Adler: Well, no.

>> The problem with that would be the ones in the pipeline.

>> Mayor Adler: Yes. I think there needs to be a third sentence. In any event, the director shall not accept further short-term rental 2 application after September 12th -- November 12th of 2016 -- 2015.

>> Pool: I'll second that.

>> Mayor Adler: Ms. Houston makes that motion, seconded by Ms. Pool. Is there any discussion on not having any more applications received after the 12th?

>> I hate to even ask. I have a legal question, though. But we're putting that language in a document that doesn't take effect for ten days.

[12:58:03 AM]

So how can the document that doesn't go into effect for ten days prohibit doing something --



>> Mayor Adler: So it says shall not issue a license for any application received after November 12th. The last sentence, in any event, the director may not issue a license pursuant to an application received after November 12th of 2015.

>> Call the question.

>> Mayor Adler: Any further discussion on that?

>> I can barely talk.

>> Mayor Adler: Those in favor of that, please raise your hand. Those opposed? It's unanimous on the dais. We're now back to the main resolution. Main ordinance. Any further discussion? Those in favor of the ordinance as amended --

>> Mayor, I'm so sorry, I just feel like I'm probably the sole -- I don't know, I'm probably going to be the sole vote against this, so I just feel like I have to restate. I think that this is the wrong approach to take. I feel like we all started out with the -- with the same goal of trying to increase enforcement and get rid of the bad actors and str-2s and solve the issues that the neighborhoods are experiencing while protecting the rights of responsible str-2 owners, and I'm just -- I'm disappointed that we got to this place where we're having this contentious fight between -- between neighbors, and I really wish that we would have calmed down and done everything that we could to focus on enforcement. I think that capping or putting a moratorium, essentially capping the number of permits that we're issuing is completely the wrong way to go. I think those permits are going to be even more valuable. You distort the market and the people who are having the problems are going to continue to have problems. So that's why I can't support this. I'm going to continue to work with the other councilmembers on making sure that we have strong enforcement tools, and I guess speak up for -- for the property rights of responsible str-2 owners.

[1:00:19 AM]

[ Applause ]

>> Mayor Adler: Okay. We'll now vote on the resolution from mayor pro tem. Those in favor please raise your hands. Those opposed. 10-1, troxclair voting no.

[ Applause ] Council, we have one item left on our agenda. It is the parkland dedication ordinance. It's 1:00 in the morning.

>> Mayor, mayor, you didn't vote on your main motion. You voted on the amendment.

>> Mayor Adler: No, we voted on the resolution as amended.

>> Zimmerman: I thought we voted as amended.

>> I think the last vote was actually on the -- councilmember troxclair's amendment.

>> Mm-mm.

>> Mayor Adler: In any event, just to be sure, we're going to retake the vote on -- again. Mayor pro tem's ordinance as amended. Nose favor raise your hand, those opposed. 10-1, troxclair voting no.

[ Applause ] We're now at the parkland dedication ordinance. It's 1:00 in the morning. Is there any interest in postponing this until next week?

>> Zimmerman: Mr. Mayor, I move a postponement of this item.

>> No.

>> Pool: For a week.

>> Mayor Adler: For one week?

>> Pool: People are out there.

>> Zimmerman: We can hear from the people who are here but I don't want to have to vote and deliberate but I don't want to have to vote.

>> Houston:all day.

>> Tovo: Including our staff who have been back there all day.

>> I think we need to hear it. >> Speaker4:.



>> Zimmerman: I'll withdraw the motion until we hear in whoever is here to speak.

[1:02:19 AM]

>> Mayor Adler: Rather than have laid outlets just give people a chance to talk. First speaker I have is David king.

>> Thank you, mayor.

>> Mayor Adler: I'm going to --

>> Councilmembers.

>> Mayor Adler: Is it -- after we have the speakers do you anticipate we would postpone this for a week? Do you anticipate we would close testimony today or keep it open for next week?

>> Pool: Maybe we can see where serve at. We might be able to vote it.

>> Mayor Adler: Okay. I'm trying to figure out if I'm doing three minutes or two minutes here.

>> I'm good with two minutes, mayor, myself. So. . .

>> Mayor Adler: We have 54 minutes worth of speakers.

>> I'd be supportive of two minutes.

>> Mayor Adler: I'm sorry?

>> Garza: I'd be supportive of two minutes.

>> Mayor Adler: Okay, I'm going to limit it to two minutes. It's going to impact whether I'm -- I think we should vote or not. Mr. King, two minutes.

>> Thank you, mayor. Councilmembers. I just hope that you don't postpone this. That's my message tonight. This thing has been postponed time and time and again, delayed time and again. I just wonder what the purpose of this delay would be. There's another request to delay this. Is the real purpose to keep the new development from paying for itself and getting our city what it needs? We need more parkland dedication fees so I urge you not to delay this again. The other side, those folks that say they haven't had enough time to look at this, consider the impact, they've had plenty of time. You've delayed it before and given them almost two more months to look at this. So I think the time is now to move forward and pass these new fees. It's been since 2007 that the fees have been changed and we're suffering. We don't have enough parkland for our city. We don't have enough amenities and improvements to our parkland already.

[1:04:25 AM]

And we're growing. We've been growing rapidly. And we're way behind the curve. So now is the time to move forward on this. Don't delay this anymore. Implement these new fees. And, you know, Portland raised \$20 million off their fees last year. \$20 million. How much longer are you going to wait to get the money that we need for our parkland and for people who are moving here? I hope that you do not delay this. The other side has had plenty of time to look at this and make sure that it's -- you know, they understand how it's going to impact them. So if we delay it again, is it going to not fit into the next budget cycle? How many more projects are going to get in the pipeline and not pay their fair share if we delay this again. I think now is the time, and I hope you will do this. Thank you for staying so late and working so hard for our city. Thank you.

>> Mayor Adler: Thank you. Peter mullen.

>> Not here.

>> Mayor Adler: Peter is not here. He's handed out something on the dais.

>> A few items, again, Eric with ora. Number 1, the formula for parkland dedication punishes medium and high density housing at 60 units per acre. The formula in this draft proposal would take 96% of the land. I can only assume that's an excel error because no one in in actuality would propose that.



[1:06:28 AM]

On the burnet Rockwood case y'all approved 7-4 it would have taken 146% of the property if you applied the dissuasion fees so I -- dedication fees so I would encourage to you instead express this as a percentage of the land, 12% under remittance, pard controls 10% of the city if you add the land controlled by other agencies it's up to 14%, that includes water conservation, Travis county and the state, source halfway between 10 and 14 is 12, you can do 10 or 14, I think, up to you. Secondly, there is a document in the ordinance called the dashing operating procedures that -- parkland dedication that say that parkland must be compliant with. This is a document not before you and several rules to be written by the parkland staff so I would encourage you to require that that document and other documents referred to in this ordinance be items that would be approved by council. This would give council authority over parkland. I think that's a very important item. Parks are a critical component of a great city, so I encourage you to add an item saying that you have to approve that document and revisions to that document. Finally, I would encourage you to use the parkland dedication fee to also be able to retire debt and to base the fee on the cost of land dedication. Happy to answer any questions.

>> Mayor Adler: Any questions? Mr. Zimmerman.

>> Zimmerman: So would you agree that the audit that was done, I think it was an audit done by our city auditor in 2013, that uncovered some problems in how the fees weren't being used in a timely manner -

>> Yeah, the audit did show that the fees weren't used within the five-year period that would require being refunded to the developer. I think that's a bad outcome if we want to spend it on parks.

[1:08:31 AM]

I do think that a little bit more work on figuring out where these fees are going and how they're being used would be helpful. Apparently that same audit found that the parkland staff had miscalculated the dedication requirement some, like -- I think 1 in 10% of the time. So an audit would be helpful. I don't know if the timing of that. I understand there's one scheduled to begin the beginning of December that you pointed on the message board.

>> Zimmerman: You're saying the formula for this is screwed up because we're at 96% or 100%, something is wrong.

>> I can only assume that must be an error. I mean, that's a broken formula. Thank you.

>> Mayor Adler: Thank you. Next speaker is -- I'm going to ask for Allison alter.

>> Good morning, I'm a new member of the parks board, great Austin parks coalition and I'm a chair of the Ramsey park project. I stand before you asking you to support the pld ordinance and to vote on it tonight and let us move on and support the parks in our great city. Four of you attended our Ramsey park celebration in March. At that time mayor Adler, you may recall you wanted every neighborhood to be able to Ramsey their park. You wanted every neighborhood to benefit from a park. Well, the pld ordinance is one way, one step towards doing that. Ramsey, you may not be aware, benefited from parkland dedication fees. With those fees in hand that we were able to get, we were able to leverage lots of other private funding and renovate the park, which is a model for the the city for all other community initiatives. I've heard talk today about delaying passage of this ordinance. I want to remind you that if you delay so this is implemented in September of 2016, according to the prior estimates that will cost \$2.7 million and 30 acres of parkland.

[1:10:45 AM]



Ramsey park is 5 acres. 30 acres is six more Ramsey parks in neighborhoods around the city, depending on where the development takes place, \$2.7 million, we received \$60,000 from parkland dedication ordinances -- fees, excuse me, it's late. That's 45 community initiatives that could be helped simply by not delaying this process. This has to happen now. Delaying is simply a tactic not to raise the fees. Austin's fees are already among the lowest in the country. We've already heard about Portland. We're less than El Paso. I've also heard concerns on process. I'd like to remind the council that this ordinance is about policy. The process can be reviewed by the parks boarder and that is the full intention of everything else. I believe I have other minutes that were --

>> Mayor Adler: You have two more minutes.

>> Yes, thank you. So already I also want to mention that this is a compromise. The 9.4 acres per thousand is without the district and the metropolitan parks in the calculation. Were they in there, we'd be talking about 22 acres. The great Austin parks coalition seized this as a -- sees this as a compromise already. You're going to wait, delay, end up in in the same place and you're going to lose the funding, that \$2.7 million and that 30 acres by trying to delay. I do want to say that the parkland dedication should be viewed at one tool in our toolbox for improving our parks. Our parks need many other tools as well, and we will be coming to talk about those in the future and the parks board will hopefully be reviewing those. I and you to pass the parkland dedication ordinance tonight and not delay. Finally, there are a couple of people who were not able to stay until 1:00 A.M. To talk about this. I believe you have a letter from my colleague, Richard de Parma, a member of the parks board. I believe you can all read that.

[1:12:46 AM]

I don't need to read every word but suffice it to say he's also urging you to pass the parkland dedication ordinance this evening. For health reasons he was not able to stay. I hope that you will take it upon yourselves to do something important tonight to improve the quality of the lives of our citizens. We're talking here about nature, about access, about everything that makes our city great, and when we think about parks, we think about Austin. But you can't have parks and think about Austin if you -- if you continually grow and you don't provide the means to create those parks to maintain those parks and improve those parks. So please pass the ordinance this evening. Thank you.

>> Mayor Adler: Thank you. Next speaker is Stewart Hirsch.

>> Mayor, members of the council okay, my name is still Stewart Harry Hirsch and I still rent. On June 6, 2007, your predecessors changed the parkland dedication ordinance. And they ignored the recommendation of the affordable housing incentive task force appointed in 2006 that suggested that fee waivers for affordability only go to smart housing developments. They allowed developments that had an affordability component that didn't meet smart housing standards for accessibility and transit orientation and greenbelting and all those other things get the same fee waivers as developments that met the robust smart housing standards. That was a lousy staff recommendation then, inconsistent our smart housing policy, which is the primary affordable housing policy of the city. And tonight again you have a recommendation that acts as if that recommendation never came from the affordable housing incentive task force.

[1:14:49 AM]

You are all serious about housing affordability. And yet you keep having actions put on your agenda that don't give you the tools to do something about it. So if you're going to pass this -- and I think it needs to be changed -- you need to look back on solid policy recommendations that were offered and ignored by



your predecessors and begin to embrace them so we start having a code that reflects our rhetoric around housing affordability. Thank you very much.

>> Mayor Adler: Thank you. Next speaker is rich, who is not here. Susan Rankin.

>> Houston: Mayor, Mr. Hirsch usually has a handout. Did we get one?

>> Mayor Adler: No handout.

>> Houston: No handout.

>> Mayor Adler: Well, it's late at night.

>> Good morning, mayor Adler, mayor pro tem, councilmembers. I'm Susan, executive director of the trail foundation and we're also a member of the great Austin parks coalition that Allison alluded to. We agree with the fundamental concept of parkland dedication fees. New development creates an additional need for parks and amenities and the people creating the need should bear the cost via new parkland or fees in lieu. The current fee in lieu of \$650 is too low in that it does not cover the actual cost of creating new parkland. It is inadequate to maintain Austin's park-related high quality of life. We would also like to note that when pard used the neighborhood park acreage baseline number to create it it actually only used the neighborhood park Numbers but we'd like to point out that the neighborhood parks risk not the only pressure. The pressure by the new residents is not only on neighborhood parks but it's also on the metro and district parks, such as zilker park, the butler trail at lady bird lake.

[1:16:55 AM]

So pard used 8,201 acres as the baseline number. This number actually excludes over 12,000 acres of metro and district parks. What that means is that the calculated fee in lieu Numbers are actually quite conservative. These are very conservative Numbers when you're looking at the pressures that are on all of our parks. We ask that you pass on first reading today and we appreciate your consideration. Thank you.

>> Mayor Adler: Susan, would you email those comments to us, please? Did you have those written out?

>> The Numbers?

>> Mayor Adler: Mm-hmm. The whole -- what you read.

[ Laughter ]

>> Yes.

>> Mayor Adler: Thank you.

[ Laughter ]

>> I'm sorry. Yes. Me some of that was -- some of that was in the letter that we did email, yes.

>> Mayor Adler: Okay. Thank you. The next speaker we have is Katie Van Dyke.

>> Good evening or good morning, my name is Katie Van Dyke. I'm here on behalf of evolve Austin partners and I don't know if you know but the the mission of evolve is to champion the imagine Austin comprehensive plan, and so we have no problem with parks. We love parks. We want more parks. We want the right kind of parks in the right areas. We want all of our austinities to have access to great parks. We also do have no problem a reasonable fee increase. It's very clear we need more money for better parks and to buy and develop parks so that, again, all austinities can have access to them.

[1:18:59 AM]

However, evolve has requested postponement of this item today for the reason of -- we feel that an opportunity to meet with the parks department staff, to come up with you some reasonable alternatives to the land dedication formula, to really button it up and make sure there's no unintended consequences of this formula, as Eric described, that could go very wrong. Although we have faith in the parks director that she would not ever require 140% of a piece of property to be dedicated for parkland,



that is how the ordinance is currently written. So I personally believe and the board of evolve has voted on this request for postponement to schedule a meeting. We can have it this week, next week, as soon as possible, to discuss -- to discuss and propose some alternatives to the current land dedication formula as written. Again, I wanted to reiterate a reasonable fee increase is totally rational, is needed at this point. And this is not a density versus parks argument. This is a we need to consider all of the eight goals of imagine expanse try to harmonize them in this -- imagine Austin and try to harmonize them in this appearance. Thank you.

>> Mayor Adler: Thank you. Ted sif. With Todd Shaw on deck.

>> Thank you, mayor and mayor pro tem, councilmembers. My name is Ted siff. I come before you as president of the board of the shoal creek conservancy, a member of the great Austin parks coalition. We support the passage of this proposal tonight. If you feel you can only support it on first reading for whatever reason, we encourage you to support it on all three readings as soon as possible.

[1:21:01 AM]

We come here tonight at the end, we -- we hope at the end of a process that's over a year and a half long. It's the most robust public participation process that I can remember with regard to an ordinance such agency this, and, well, there have been some issues that have been raised tonight about a formula that might have unintended consequences. Those folks who have raised that issue have not noted a mechanism within this ordinance that allows a developer to pay a fee in lieu of a parkland dedication. That mechanism has existed since 1985. This is not the first blush, the first effort to park -- to develop a parkland dedication ordinance. This is an amendment to an existing ordinances that been on the books since 1985. If this mechanism was so terrible and so prone to unintended coincidence consequences, we would have heard about those unintended consequences already. We haven't because the mechanism provides an alternative method of compliance. The fee in lieu of dedication of parkland and that's worked. Thank you.

>> Mayor Adler: Thank you. Tom turkell. Taylor steed.

>> Mayor, councilmembers, thank you for allowing me to speak this evening. My name is Taylor steed, I'm a real estate developer and also a member of the real estate council of Austin hill country connoisseur vansy. I'd ask what is the problem we're trying to solve with this ordinance. I think the answer is need for more parkland sore why St. Is the city not funding more parkland? Lack of fund or opportunity?

[1:23:03 AM]

I don't think there's a lack of funding as the audit from two years ago shows more than half of the parkland dedication fees was not used within the five years the ordinance requires. The current balance I believe is 5.5 million. If the issue is lack of opportunity to, please understand that increasing the dedication requirement just makes it less feasible for owners to donate parkland and more importantly and parkland is dedicated it directly reduces the housing supply which makes housing costs increase. My question is why are redrafting an ordinance that puts two items our community values in conflict with each other, parkland and additional housing. I think it's important to put the increased dedication requirement into context. Austin has 26 acres of parks per 1,000 residences, which is the highest among major Texas cities, second only to San Diego when studying peer cities. We've talked about the formula, and I want to note that the formula has doubled so the dedication was 5 acres and now 9.4. While we do have the mechanics of paying a fee in lieu referencing back how it used to work I think is misleading because the formula has now doubled. And this is probably most important part. I believe affordability is the number 1 priority of this city. The cost of housing is a major component of cost of living for most



families and our housing cost problem is driven by a lack of adequate supply. As our mayor stated we need 100,000 housing units in the next ten years to impact affordability and bring housing costs down. As drafted this ordinance requires that we provide 9.4 acres per every 1,000 --

[ buzzer sounding ] My point is in a would be 2,000 acres, that's an impossible number for us to ever achieve. Thank you.

>> Mayor Adler: Thank you. The next speaker is Todd shawl.

>> Hello, maybe, councilmembers,ed to Shaw, I'm in in Leslie pool's district and I know she's a big parks supporter.

[1:25:10 AM]

Appreciate it. I support this ordinance and as a long-time Austin resident I've enjoyed all of the parks here like zilker, the trails. I have fond memories of playing Frisby golf in Bartholomew park, taking my son to Ramsey. That's part of what it means to be here. We were a leader in the country, and I think we've kind of lost sight of that leadership role when it comes to the amount and quality of parks. And I strongly support this ordinance. I would say that the staff's data kind of speaks for itself. I saw it a weeking and I was shocked at how we kind of lost keeping track with the growth here in town in supporting our parks. So please give more money, more parks and more money to increase the amenities and keep the quality of life here as high as it's been in the past. Thank you very much.

>> Jeffrey jackwawa.

>> Thank you, mayor, mayor pro tem, honestly members of the council. I'll keep my remarks short. The main thing was there was an audit that was done in 2013, which I'm sure you all are very aware of and there's still some outstanding questions as to whether or not those items were implemented. Obviously, within the plan of the audit it said that they should have taken place in June and July of 2013. However, there has yet to be a follow-up audit to confirm this. I think it's imperative of any governmental institution to ensure that the money is being spent in a proper way, and what that audit discovered is that the money wasn't being spent in a timely mannerrer and that the development fees were either being overestimated or underestimated, and I think it's very critical for the city of Austin to examine and take a look at this and it is our understanding that the request has been made for the parkland dedication fees to be added to the 3-year follow-up and the auder has been gracious enough to expedite that process.

[1:27:30 AM]

So the homebuilders association of greater Austin are recommending either a postponement until that audit can be completed and then the findings presented or pass on first reading with the stipulation that it can't come back for second until that follow-up audit has been completed and then the findings presented and so that's our recommendation as of tonight, and I hope you will consider it. Thank you.

>> Mayor Adler: Thank you. Chris Alan.

>> Tovo: Mayor, I apologize for slowing us down but I need to ask him what organization he was representing? Because of the hour I've forgotten.

>> The homebuilders association.

>> Tovo: Thank you.

>> Good morning, mayor, councilmembers. Thanks for being here so late. I'm going to be mercifully brief and give you a 1:30 A.M. Pep talk. Most of what you consider these days on this dais are issues relating to Austin's inevitable growth into a big city. Tonight you're looking at something that gives you the opportunity to make Austin a great city. Have a little seventh inning stretch, loosen up and do some good work. The opportunity is before you. Thank you very much. Support 81, please.



>> Mayor Adler: Thank you. Bart Tisdale.

>> Good morning. Gosh, it's late. I don't have a whole lot to add other than what's been said but I'll agree with my friends Susan and Jeff and Eric and Katie. We do -- we support -- excuse me, I'm with the real estate council of Austin, we support the parkland dedication ordinance. Development should pay for parkland. We have no issue with that, and on the fee issue, I think a fee adjustment is appropriate.

[1:29:35 AM]

Right now it's ranging anywhere from 45% to 140%. That might be a little high but that's something that we can have more discussions on. The dedication issue is definitely a concern, as Taylor mentioned. It's nearly doubled, 88% to be exact from five to 9.4, and that's an issue that has not been resolved. It's not workable right now. You know, one thing mentioned I think the 12% gap. We would like to see a way to simply that would be to put a 10% cap on parkland dedication. I think that would be reasonable. It simplifies it and it gets us to where we need to be. And I will echo what Jeffrey just said about the audit. I know councilmember Zimmerman mentioned and there was a posting from councilmember Gallo, let's do the audit. Let's do the follow-up. Points were raised. I'm sure the parks department has good responses to those but as stewards of the monies, public monies, I think it's incumbent that you make sure that things are straight on those issues that were raised in the audit. If it can be done in a couple months, let's do that. So that would be our request, is that we postpone this until that audit is complete and then we get into that conversation that Katie mentioned. Let's really sit down and have meaningful dialogue. We've made a lot of recommendations back to the parks department that frankly were not incorporated.

[ Buzzer sounding ] So that would be my request. Thank you and everyone have a good night. Have a good morning.

>> Mayor Adler: Thank you. Is Jeff Howard here?

>> Thank you, mayor, good evening, councilmembers, Jeff Howard, local land use and real estate lawyer, past president of the real estate council of Austin and for the last 20 years I've been involved in just about every major land development code amendment that's come before you.

[1:31:37 AM]

This is very definitely a very major land development code amendment and I'm concerned over some unintended consequences as this ordinance may apply to future projects. You know, doctors say first do not harm and I think that this has the potential on the land dedication requirements to do harm. To be clear, I also support changes in the fee. We've heard a lot about that. This is not just about fees though. This is about a land dedication that as Eric mentioned has a broken formula. It impacts housing supply. It's the mathematical opposite of density. It's the mathematical opposite of more housing units and we should all care about housing supply and there's a reason we should all care about housing supply. Housing supply affects all of us. If we have fewer apartments to rent than the new residents that come will compete with the existing residents and the rents go up for existing residents. If we have fewer homes to sell, those that are for sale, the prices go up. The value goes up. Our taxes go up. Housing supply affects us all. It is an affordability issue and we should be concerned. Now, Tom could not be here but what he told me, he told me to mention the triangle as an example. The triangle is 21 acres, 751 units, 3 acres of park and 3-acre wet pond. Under this ordinance it would be required to have 12 acres of parkland. To Mr. Siff's point it could not participate in the fee in lieu of and the reason it could not is because you can only participate in fee in lieu of if your dedication requirement is less than 6 acres under this ordinance. So if it's more than 6 acres you don't have fee in lieu of as an option. We could not



do the triangle. The triangle would not happen. Other examples, 10-acre, 30 unit per acre project would require 4.8 acres.

[ Buzzer sounding ]

-- Of parkland. That land dedication requirement is simply not workable. I encourage to youic Ta the time to straighten that out. I encourage you to take the time to consider objective criteria for the directive for considering fee in lieu of.

[1:33:42 AM]

Where that I'll be happy to answer any questions.

>> Zimmerman: Quick one, thank you, Mr. Howard. I'm looking at something here that says parkland dedication ordinance fact frequently asked questions and I'm days maid. I'm told here in item number 8, the question is will an increase in pld fees increase the cost of housing. And incredibly, city staff tells me land dedication are not likely to lead to any increase in the price of a new home. To me that's exactly false. It's exactly backwards so I've got huge problems with what's in front of us right here.

>> I would agree with you.

>> Mayor Adler: Thank you.

>> Zimmerman: Thank you.

>> Mayor Adler: Those are all the speakers that we had. Thank you, sir.

>> Thank you.

>> Mayor Adler: We're now back up to the dais.

>> Pool: Mayor.

>> Mayor Adler: Ms. Pool.

>> Pool: I would really like to invite staff to come and respond on the issues relating to the audit. Work session, and the questions that had been raised were answered to my satisfaction. And I'd like for the director and her staff and the city auditor too to come and just kind of rehearse all of that and explain how we got from there to here. Thanks.

>> Sara Hensley, director of parks and recreation. Thank you for asking because it seems to be this seems to be one of the reasons why people don't want you to support the parkland dedication, and there's no doubt that there was an audit and it was an audit that we agreed to all the findings. There were three. The first one was to -- well, not the first one but one of them was to update -- have a website that would be transparent and to show where the money was spent. To date, 99% of the money has been spent and we just received another allocation of funding in October of this year, which then we start all over.

[1:35:46 AM]

But 99% of the money was spent after we saw that the auditor found that. But one of the reasons why it was difficult to spend the money is that when you have \$650 per door and you have 100-unit development, the amount of money that you get through fee in lieu of, if you don't get land donation, is not enough money to buy parkland. It's not enough money in some cases to build a playground, a play scape. Today's playscapes run around 150, the bear minimum to 250 to \$300,000. Yeah, we can buy trash cans and put new new signs. That's number 1 purchase we needed to -- that's number 1. We needed to look at how we calculated the fees and a better between when someone did their site review, paid their parkland dedication dollars and how we ensured that the amount of money seen as being owed was checked, rechecked, double-checked. So we created a system where three eyes were seen reviewing that amount to double-check and recheck to make sure the amount of money that came in was the adequate and official amount that we should be receiving. And then, finally -- and I think I



mentioned the database, we also looked at ensuring how we expend the funds, which was in the five-year period so I gave y'all three of them. One was expending the funds, which we've done at 99%. The other one was setting up a way to implement a process for calculating and reviewing pld assessments. We did that with a three-tiered review and double review and then the other one was making sure the information, including information on collection expenditures and availability of funds are made readily available to developers and to the public. We did that through a web page on the parks department's website. And we continue to update that as we are continuing to get funds.

[1:37:49 AM]

So those are the three items. I'll let our city auditor talk to you about that process, and then any other further audits.

>> Corrie stokes, city auditor. Just quickly, in terms of the follow-up process, so what happens with every audit that we do is every six months the city controller requests the status of our recommendations that we've issued from each department and then collects that information. So for this audit we have that information. So we know what the department reported, and that includes what Sarah has mentioned. So we have information on the reported status and as of, I believe, 2013 these were reported as implemented -- two of them were reported as implemented and the third was reported implemented in 2014. So we know that information. What we would do in a follow-up audit is test that, pull an example, for example, and we would look at a databases that been created and verify that the funds are being expended timely and that they have a way to capture. I think one of the issues before was really about a data or an information problem, and it sounds like that's been corrected with the database. That's what we would verify.

>> Pool: So, Ms. Stokes, are you saying that there are no outstanding issues with the audit that you conducted police.

>> We have not tested that. As an auditor I can't tell you there are no outstanding issues but I can certainly say we've reviewed the reported status and it seems like the issues that have been addressed through various tools.

>> Pool: When people talk about audits, when there's money involved, it tends to lead to some assumptions that there's malfeasance or maybe some loss of funds through theft. Was that ever any part of what you were looking at?

>> That's something that we have to consider by our standards in every audit we do. It wasn't something that came up here that we thought was an issue. If that would have come up it would have definitely been in the report. It wasn't something we saw. We saw some information collection issues and then also, as Sara mentioned with one of our recommendations it was really about transparency, making sure that all of the information about the money collected, who it was available to, where it was available, was all kind of presented in a public way, in a transparent manner.

[1:40:06 AM]

>> Pool: And the problem that the -- that you identified that parks had was that they simply had not spent the money as quickly as they had been directed to spend it. Is that right?

>> Correct. And didn't really have a process for prioritizing it from a -- you know, this is the money that needs to be spent first because it's the oldest. But as Sara mentioned I think we discussed at the time of the audit some of the constraints around having enough money to spend in a particular area.

>> Pool: And that indeed was the reason why they hadn't been able to spend it, it wasn't even because they didn't want to, but they didn't have enough in order to make the purchases that would have been - that would have been applicable?



>> Correct. And, quite frankly, it wasn't -- coming on board and looking at the money that was sitting there, I felt -- I also felt like it would have been irresponsible to go and just arbitrarily spend money just to bring it down to a zero balance without doing what I believe to be the due diligence of community engagement, finding out where the real needs are, setting up priorities, knowing where the money is needed, making sure that Uber spreading the money where it needs to be and not -- and you can only spend it within a radius of where that money is generated. Spending, you know, \$15,000 on something just to spend it down when you knew you had neighborhood groups who wanted to raise money to match that so you could do something more meaningful in their neighborhood, those are the things we faced and that is why we did not spend that money. But, again, we agreed with the audit. We came up with criteria. We worked through our parks and recreation board. We have -- the staff have been very diligent in spending the money now and making sure that we have community engagement to make sure it's meeting the needs of those different communities. But we still are trying to piece money together in certain areas where it wasn't significant enough to do anything meaningful until some areas.

[1:42:07 AM]

>> Pool: And how many -- how long a period of time elapsed for pard to collect the \$5 million?

>> Just -- the recent -- are you talking about the previous or --

>> Pool: I think there was mentioned and I'm getting kind of tired, though, a dollar figure was mentioned earlier that there was about \$5 million in the fund that we just audited, right? And how long -- over what period of time has that money accumulated?

>> Councilmember, ricardo with the parks department. We received 4 million this October and so we had 1 million balance in the account prior to that.

>> Pool: And that 1 million balance in the account prior to that was over what period of time?

>> It was probably, I would say, 2013, 2012, to date.

>> Pool: Sop two or three or four years?

>> Correct.

>> Pool: Okay. Okay, thanks.

>> Mr. Zimmerman.

>> Zimmerman: Mr. Mayor, thank you. So Ms. Hensley, I appreciate the fact that you made the remark that even though the rules said you were supposed to spend within five years that you don't want to just go out and spend money just to spend it. You know, you want to be more careful than that. But that kind of underscores my concern with all this. It's been unintended consequences. We heard some experts testifying that the way they read the rules, there were some other unintended consequences that in certain special situations the rules couldn't be complied with by the persons that are being forced.

>> Mm-hmm.

>> Zimmerman: Okay. That's what I would like our auditor to take a look at, to verify whether those claims are true or not. I mean, do the proposed rules make sense? Do they have some unintended consequences? Do they have some features that don't make any sense.

>> Sure.

>> Zimmerman: So that's really what I'd like the auditor to look at, is to say are these claims true or false? And I think the auditor could tell me that.

[1:44:09 AM]

I don't know that right now.

>> No. I understand.



>> Zimmerman: Okay.  
>> Zimmerman: Is that something you can do?  
>> It is something we can do. Right now, it wouldn't be part of a follow-up project so it would have to be a new project. Just because it's not something that we looked at in the prior work.  
>> Zimmerman: Right. We're not going to do it at 1:45 in the morning.  
>> Fair enough.  
>> Zimmerman: Thank you.  
>> Mayor Adler: Ms. Houston.  
>> Houston: Yes, mayor. How long have you been working on the parkland dedication fees?  
>> 2012. Since 2012. And then in -- I have a time line but in 2014, I believe, we were directed by the previous city council in August to conduct a comprehensive review and develop a methodology to ensure regular analysis and recommendation for the adjustment of the ordinance. Staff began to work immediately. And submitted a fee methodology report to mayor and council in November of 2014. That council then in December passed a resolution, adopting the proposed fee methodology and initiating a parkland dedication code amendment. So we've been going on since 2012 as a staff trying to do review. We worked with John at Texas A&M university, we did a the lo of work calling colleagues across the country and worked through the parks and recreation board, open space committee and now to council.  
>> Houston: So were the stakeholders a part of those conversations? Some of the people that spoke tonight?  
>> Yes, they were. And we specifically even asked for a -- when we were supposed to be before you in October, I specifically asked for a postponement on our owning to back and review that with some other stakeholders. I wanted to make sure that people weren't left out and asked staff to even do one on ones if absolutely necessary so we could make sure people were engaged.

[1:46:12 AM]

Didn't mean that they would agree with us, obviously, and I understand that and respect their viewpoint. I do have to say this, though. We have no intention, nor do we want to, be up against an affordability, housing affordability issue. But it's also about livability. And there isn't any part of this city, no matter where you live, that isn't looking at about livability and quality of life. And so my biggest concern is not having parkland and those kinds of things for all of our citizens. And we're very limited. We've had to ask for dollars through the bond projects, the bond program just to be able to buy land. If you look at the ability now to to have the money to buy land, even when it costs one half of an acre \$1.25 million, which is what we had to pay for a piece of property on old orf. This is so important to be able to do that but it's also important to go back and add extra amenities into parks. We can spend it on that, not maintenance. So there's a lot more to this. And we consider ourselves one more component as it is when you have to pay your fees for whether it's in watershed or whether it's dealing with heritage trees. This is one more part of a quality of life and livability in the city of Austin.

>> Houston: Thank you.

>> Pool: Mayor?

>> Mayor Adler: Mr. Renteria.

>> Renteria: Yes. I just want to ask you, how do y'all deal with -- you know, we've been working very hard trying to get a pocket narcotic our area, and we have a lot of development. We have a lot of units being built. Do y'all use some of that money to help buy pocket parks?

>> Yes. As a matter of fact, we -- and that's the other thing. We are not -- and I know -- we're not enemies with development. We are partners with the development community. And we need them just like they need us, because people will buy houses and be in apartments because of the quality of whether a park is there or school is nearby.



[1:48:12 AM]

So there's a relationship there. So when we work with them and let's say they have -- it's very dense, but they're on a small piece of property, we're not going to say you're going to have to give us more land than you're developing. What we're going to say is we need to work on the livability aspect and then some of that money it may have to be paid in lieu of so that we can put amenities into another area. So we work with the developer to create -- whether it's a small pocket park, whether it's a plaza area, whether it's trail connectivity. You have to look no further than some projects down here in the downtown area where there wasn't enough land for parkland dedication, it was fee in lieu of and trail connection, the development of that trail, ongoing maintenance of the park for -- in perpetuity. All of those things are components and are opportunities for -- to complete their responsibility when it comes to parkland dedication. Josh the only reason I was bringing that up because you know we've been trying to work on the pocket park and it's taken -- I mean, we've been working on this for, like, four years. And we still can't get enough money to complete the park. And I'm going -- and then I find out that you have all this moneys that been coming in. I guess now you don't have it, but you're collecting a lot more money because of the development that's going on around that area. And we were wondering, I said, wow, if we had that money and it was supposed to be used for parkland, how come we're struggling just to try to raise just a little bit of money here and there, you know, and not able to get this park done?

>> No. In that particular instance we do have the consultant working right now to help get the -- it's a high cost because of the wall area there and the runoff situation and the costs that we were given was well in the millions so what we're trying to do is work out a solution so we can get that done. And I know that Daniel Woodrow's group is the group doing that and they're working on that because the cost was so exorbitant we couldn't afford that with parkland dedication money but we are trying to get that more reasonably cost so we can get that completed.

[1:50:23 AM]

That's a perfect example of where parkland dedication money can go in. It can't go in just to improve. It needs to make improvements above what's normally there. When we go into do playgrounds it has to be something not just replacing the playground but an improvement to that but that's where a lot our parkland dollars grow.

>> Mayor Adler: Sara, let me ask you a question. I'm a strong proponent of parkland, we need more in the city and disagree we need more and it's kind of who we are in the city of Austin. I have a question that I want to just ask you to respond to that I'm hearing from focuses that I can't answer. And it deals well the dedication and the fee necessity lieu issue. So we have a dedication requirement that could exceed the size of the lot itself. Obviously you can't make people nor would you make people give more land than they have.

>> Right.

>> Mayor Adler: But I'm trying to figure out what it is that actually happens then. So in a -- so someone starting a project, looking at a piece of land and trying to figure out what they're going to do, whether they invest this that piece of property, what kind of project they do, wouldn't be able to know at the beginning of that process what they could do or not do. They would have to get into the project far enough to be able to sit down with you to figure out what they could do or not do. So there's a measure of predictability with respect to projects that we're trying to get that by having a requirement that can't be met, certainly with an urban tract, it adds uncertainty until later in the process. And then even when that happens, at some point in that project, that person comes to you and they say -- and they say to you, we can do 5 acres of park, but if we do 5 acres of park, then -- then we can only do this much



affordable housing or we can do twice as much park but we then have to do half as much affordable housing.

[1:52:50 AM]

How do you -- I mean, that -- the conceivable -- that could be the kind of choice that -- that's presented. Is that correct?

>> That's correct. It could.

>> Mayor Adler: Okay. So you're the parks director. And you're being asked, do I get twice as much park or do I get twice as much affordable housing? Now, the criteria in the ordinance for you to apply when you're deciding that question -- because if you don't get the park you're going to ask for a fee in lieu of instead.

>> Right.

>> Mayor Adler: But the person who has sole discretion to decide whether it's fee necessity lieu of or whether it's dedication is you. And there's no appeal. It's the -- it's you. So the property owner comes to you and says, twice as much parkland or twice as much affordable housing? And the criteria that you're supposed to apply in making that decision is, is the property located in a deficient park area? Is it adjacent to a park? And is there sufficient land on the property to be able to provide that park? And I'm wondering if that's putting an unfair burden on you as park director, to be making a broader land use determination and whether joining you in that decision should be somebody who is a land use person or somebody that -- who's job it is -- your job is to -- and I want you to be every bit as strong an advocate for parks every time you turn around.

[ Laughter ] But I wonder if in that decision-making process there needs to be somebody else, the affordable housing advocate in our system, and whether or not there needs to be an appeal from that determination that goes to somebody, to some board or commission or back to the council or something.

[1:55:07 AM]

And then I find myself then back in the circle where, again, there's no predictability at all until the case has been appealed all the way to the council.

>> Right.

>> Mayor Adler: Which is what we've been trying to get away from. So I am a thousand percent in favor of increasing the fees. They seem to be out of kilter. I'm all over increased parks. I think that's who we are in this city, but I'm looking at this particular process and I'm thinking I'm not sure this works well.

>> And I would say, mayor, I don't necessarily disagree. I don't honestly like having to look at -- I'm the sole reason. That's why I said I don't -- I don't make decisions like that in a vacuum, but I will tell you, and Bart knows this, my boss, one of the things I think we need to do is look at these types of developments and issues pertaining to this holistically, from a more horizontal viewpoint, meaning that when we have a project like this that comes forward, that we know there are key components like housing affordability, this needs to be looked at holistically. From my viewpoint, from Betsy's in housing. From the planning department, from watershed protection. We need to collectively sit down and have those discussions up front with the developer and talk about what we know are policy decisions that have been made by you about the priorities when it comes into place like housing affordability, environmental issues. So, number 1, it's that way and that's the it should be done. Number 2, though, from an appeals process, we just talked about that outside, I don't have a problem in the world with that because, quite frankly, I know there's going to be many times when we're going to feel one way and a developer is going to feel another and --



>> Mayor Adler: Not just you and the developer. It's you feel one way and Betsy feels another way.  
>> True.  
>> Mayor Adler: Because she's an advocate --

[1:57:08 AM]

>> Right.  
>> Mayor Adler: -- For something else than what you're an advocate on.  
>> Right. So I would -- I mean, we run things through our parks and recreation board and let them -- and if that would be the one that made the recommendation then to council, currently there is no appeals process but from a staff perspective, and we talked before it, we're not opposed if council wants to create an appeal process. That would be fine. And I don't -- from a director of parks and recreation, you know, having that authority or not having that authority really isn't going to -- as you said it's not going to take away from what I would believe our professional opinion is, and even if it -- I had a disagreement with one of my peers, although I will say working with Betsy and working in the housing affordability area, we've -- we -- on many cases agree there is opportunity to create room for all of us. And to me --  
>> Mayor Adler: Should we --  
>> -- It makes the project better.  
>> Mayor Adler: Should we build that into the system.  
>> We can.  
>> Mayor Adler: Should we build in a review process so that you're not alone and so that the other view is there?  
>> I have no problem with that. I mean, I think the -- the project -- the goal is to make if the best it can be.  
>> Mayor Adler: Right.  
>> And whatever that is, we want to be a part of that. And so if that is to bring that component into it and make sure that we have done all that, absolutely. I would hope that we do that already, but if we're not, we need to make sure we are.  
>> Mayor Adler: Okay.  
>> Pool: Mayor?  
>> Mayor Adler: Ms. Pool.  
>> Pool: I think this is a really good point just to lay out emotion. And emotion to approve the -- a motion to approve the staff recommendation on three readings and work on this element that you have identified. I would like to suggest that it be worked on separately so that we don't slow this down. But I think that you have hit on a good piece that, if we were to broaden the number of people who were involved in the conversation would -- and if we were to determine an appeals avenue, that might be a good -- a good thing to dig into.

[1:59:27 AM]

So that's -- that's what I would move, that we approve this on three readings tonight and do further work to establish a broader --  
>> Mayor Adler: Let's see if there's a second to the motion.  
>> Mayor Adler: Let's see if there's a second --  
>> Zimmerman: Did I not have a motion to postpone --  
>> Mayor Adler: I think you said you were going to but I don't think that you did.  
>> I thought you went through it.



>> Mayor Adler: Ms. Pool has moved for adoption of this item on all three readings. Is there a second to that?

>> Yes. I'd like to second that.

>> Mayor Adler: Ms. Tovo seconds that. Is there discussion on that?

>> Renteria: Yes. You know, I really want to learn a lot more about what's going on. I just don't feel comfortable voting on this for all three readings. I think that we -- I'd be willing to vote on the first reading, but I think that you brought up a lot of important things that I really want to really look into, and I think we can work this out, you know, after the first reading, and, you know, get some solutions to this -- to this, because this item -- I know that it's been worked on, it's been pushed, it's been booked for as long as, you know, the displacement ordinance that was passed, and I still didn't say, hey, let's do it all in three readings because I want more input. I wasn't here when they were making all these recommendations. And I really want to really find out what's all in this and what's all involved. In fact, I didn't even know that they had the dedication money because, you know, I wanted pocket parks and they said there's no money.

[2:01:28 AM]

And I said, well, why -- you know, let's go and lobby city council to get funded for this project. I really want to know what we're voting on, and I'd feel more comfortable with we just ask to vote on first reading.

>> Mayor Adler: Ms. Gallo.

>> Gallo: Thank you to both Sarah and Cory for being here to answer these questions. I want to say that parkland has always been important to me. It's also been important to my family. My great grandfather developed the highland park area and actually donated Perry park to the school, so we've had an interest in parkland in the city for generations. So thank you for being an advocate. But I am also an advocate for fiscal responsibility, and I think that's what all of us are tasked with, to make sure that we spend the citizens of Austin's tax money wisely and effectively and efficiently and balance all the needs of our community, so as we talk about parkland, we talk about affordability, we talk about congestion and mobility issues, and we all wish that we had an unlimited pot to be able to pull as much money as we needed for everything, but it is a balancing act and we unfortunately can't have everything we want, everywhere. Part of the -- the audit I think that's important and we have talked about this, is that we have a process for starting an audit process just to make sure that the money we are getting from the community is spent appropriately and per the conditions of the ordinance or whatever entity it is that gives us the ability to get those funds. And I think that, you know, we know that you have done everything and responded and I'm absolutely convinced that you've done that, but I think the part that's not been complete is the follow-up. And as I mentioned at the work session, I think the parts that we had an audit and a follow-up to it came to light as we were looking at the investigation on this parkland ordinance.

[2:03:42 AM]

So it's good that that's come to light. I will direct that to other departments also because I think there are other places where we take money, traffic mitigation funds, that we need to make sure from the dais that we are spending appropriately and that we're not put in a situation, because the situation in the five years is not that we just haven't spent it, but the city is at risk for having to give that money back to the person, the developer, that put that money into the city. And so we do have a responsibility to making sure that money is spent within the amount of time that the ordinance declares that we have to spend it. And I just -- I think the other part of the issue, and I need some help, mayor, or maybe the



audit department, in knowing -- you know, I think it's really important, every time we talk about new fees, that we look at the fiscal impact that those new fees are going to have to our community. And I'm not quite sure whether that's something that the audit department can help us with. If, mayor, we need to talk about bringing on another person within the audit department that can actually do economic fiscal impacts on things like this, when we talk about raising fees, you know, what is the impact? What is the impact to the affordable housing? What is the impact to our tax base? And so I do think that's an important component. Some of the things that we ask about -- excuse me -- on this were, yes -- and I think we all agree the fees are low. That was part of the audit. But the audit didn't address the acreage donation, and so it almost sounds like the acreage component of this has maybe been added onto this discussion. But I think there are a lot of -- a lot of issues that we need to talk about as far as the acreage is concerned. Our fees may be the lowest, but if you add those fees for parkland onto other fees that residential developers have to pay, where do we then end up as compared to other cities when you total all of those up? And I think that is the part of the conversation that's really important because it is those total fees that affect affordability in this community.

[2:05:47 AM]

How do we -- you know, the questions the mayor brought up about if you get to a point and it's a small parcel, I think councilmember pool made a really good comment in the work session when we were talking about -- I think it was annexation, and she made the comment that in this community, north, south, east, west, there is no one-size-fits-all solution to the policies we do. And I think that needs to be part of the discussion in the acreage part of it, because what may work for a more suburban area in the number of acres per a thousand dwelling units may not be feasible in the urban core. And I don't know that we've had that discussion yet. So I just think there's so many components to this that are important that are worth the time to be able to talk about, and once again, I just think giving ourselves a little bit of time to be able to pull all of those discussions in so that we make the right decision and we don't come back and realize that we missed something that we should have talked about in this whole process.

>> Casar: Mayor?

>> Mayor Adler: Mr. Casar.

>> Casar: If it's not part of the original motion, I'd like to amend to add amendment number 3 as drafted by staff in the backup to extend the parkland dedication fee and development fee to hotel and motel uses. If it's already in there, then I'll withdraw that. I just wanted to make sure that, in particular, that one of the three was in.

>> Pool: You know, mayor, I was going to say, in listening to colleagues on the dais, I think I would like to change my motion to approve it simply on first reading, and then that will give, I think, staff time to work on the item that you have raised, although it isn't part of this, but I think they can still work on this, give councilmember Renteria more time to familiarize himself with the elements of it and maybe other members on the dais a little bit more time to think about it.

[2:07:55 AM]

Let's see, I think --

>> Mayor Adler: Does anybody have any objection to changing the motion to be first reading? Hearing none, the change is made. Ms. Troxclair?

>> Troxclair: Mayor, I thank you for bringing up the issues that you raised. I just thought I would add if we're looking for a way to make sure or balance the needs for parks with affordable housing, land use, all these other things, I would just urge -- you hinted an appeals process might not be the best way but I would really urge us to try to find a way that doesn't include an uncertain appeals process. I mean, I



think that that adds a lot of time and work, not only to boards and council meetings, but also doesn't address the uncertainty issue when a developer is looking at a property. So if there's something that we can do to build in more of a process, into the policy that we're considering to address that issue, I really think that that would be the way to go.

>> Mayor Adler: Ms. Tovo.

>> Tovo: It's not at all clear to me what that would look like, councilmember troxclair. I'm sorry, I'm just not following. I mean, if it's -- if we are setting a requirement, and they're asking for a diversion from that requirement, there will be uncertainty in that, for anybody asking. An exception is really what I meant, not a diversion.

>> Troxclair: I think in the case -- I'm not the expert on this, I haven't been working on this since 2012 so I think I would probably like other people who are experts to see what they come up with. But to the mayor's example of, you know, based on the ordinance or based on the resolution right now, that somebody would be required to dedicate more parkland than they even have, it seems like there should be -- if this is true, then go here. You know. If that's the case, then you do this. And this is the next did you understand, this is the next step.

[2:09:56 AM]

And if this doesn't work, then you do this. Not -- and in those steps would be a specific formula or the calculation or the fee or whatever it is, but not just you ask for an exception and start this whole process. So I don't think that we're going to figure it out tonight, I just thought I would throw it out there.

>> Councilmember, I don't disagree with you. I think we would love it had such a straightforward. The problem is, I can think of ten projects, you know, since I've been here where, you know, we had to sit down and work through it because the developer didn't have the land to give us. He didn't have, or she, didn't have the land to be able to dedicate it all as parks. So we sat down collectively and worked through it and said, you know, we need a trail connectivity here. How about that? Would you be able to build that and connect it to this trail? We had to go back and talk to the citizens to make sure that would be acceptable. How about -- what little bit of parkland you can get, would you be willing to build it out and maintain it and take care of it in perpetuity and it still be a public park? So there's -- I think we could put a list of those kinds of things, but each project is a little bit different. I think -- I think it is, you know, and every city faces this. Every single city. It is -- and if we did have it so rigid, then it would maybe leave to it a point where we couldn't work with someone and be creative in a way, whether it was -- well, it's going to be a plaza but everyone is going to be able to use it as a water feature. We'll count that as parkland. There's a lot of factors. Did you find it in.

>> Mayor Adler: The motion on the floor is to approve this on first reading. Mr. Casar's amendment, that's will you included? Okay. So it's to approve this on first reading. Mr. Zimmerman?

>> Zimmerman: I'd like to speak against the motion. I'd like to insist that our city auditor take a look at this independently and see if the math and the Numbers make sense.

[2:12:02 AM]

And I think I need to make a comment here. We -- we have one of the worst bureaucrat quagmires in this city, in the entire state. We're the most unaffordable city, we're the most economically segregated city. We are so bad in our bazantine stuff of rules and bureaucrats trying to decide what to do, developers have left our city and they'll never come here and build again. And that also drives up our cost. We have -- we don't have the competition in builders and developers that a lot of other big cities have. And I just -- I'm looking for a solution, and what I'm hearing this evening is just making the



problem worse. I'm really frustrated with this. So I'm going to be voting this this, but I do want to say the auditor take a look at this with a fresh set of eyes and see if there's something that can be done to fix the mess.

>> Mayor Adler: Okay. Any further discussion in Ms. Houston?

>> Houston: Well, I just want to say if they've left the city, they must have come over to my neighborhood because they're there in droves.

[Laughter]

>> I guess I just to add we wouldn't be here till 2 o'clock on a zoning meeting if developers had left the city. I had a legal question. I don't know if this has been discussed, if there was a way and I'd hate to create a trade-off between what's more important, affordable housing or parkland, but would it be considered contract zoning if there was -- we would waive the parkland, either the fee in lieu or the land, if they provided a certain, like, portion of affordable housing to a project?

>> Well, mayor, don't we do that -- maybe this is what Mr. Lloyd is going to talk about. I thought we did some extent of that in like a smart housing category.

>> We do.

>> Brent Lloyd, assistant city attorney. I mean, I think there are a couple instances where parkland and affordable housing intersect in this city's processes but this was not drafted with an eye toward that.

[2:14:13 AM]

It's entirely a parkland dedication ordinance, and so I would not at this point recommend any amendments on the dais that would attempt to capture an affordable component. If that's something council is interested in, we can certainly look at that. But I would not recommend expanding the scope of the ordinance in that direction tonight. This morning.

>> I guess how would you recommend doing that? You mean not on this first reading or not involved in this, period?

>> Should you choose to pass the ordinance on first reading, we can definitely, along with the other items that were mentioned, we can definitely look at that and be prepared to address it at least in the form of a -- of comments or a recommendation when it comes back.

>> Garza: Okay. Because that would be something that I'd really be interested in.

>> Additionally, I would just point out very briefly that a few councilmembers raised the issue of certainty, and there is one amendment that I just want to make sure you're aware of that's in the staff report, and it was prepared in response to stakeholder concerns, and it would essentially allow an applicant to obtain a binding determination as to whether the director was going to require a fee or a dedication of land, and that determination would be binding for a year. So at the beginning of the development process, it would give applicants a chance to get a determination and they could then rely on that for a year. And that's in the staff report.

>> Casar: Mr. Mayor.

>> Mayor Adler: Yes, Mr. Casar.

>> Casar: Again, I made an amendment because of the hour that was already in the ordinance, now I'm going to say something else, and maybe I'm wrong. But I thought that within this ordinance, it said the parkland dedication fees, that you don't count the units that are certified as affordable by neighborhood housing in this specific ordinance.

>> That's correct.

>> Casar: That's true?

>> That's correct.



>> Casar: Okay. And I think that we had comments from Stewart Hirsch about if it's smart housing, maybe we should treat -- and I think that a review of smart housing is something that's been brought up to the housing committee and I'm interested in and my staff is already talking to some folks about.

[2:16:25 AM]

But just to let everybody know, there is -- my understanding, and it was confirmed, there already is an eye towards certified -- for a number of years -- affordable housing, not sort of other kinds of attainable housing that's on the market or even affordable housing that just happens to be affordable because it's older, but certified by neighborhood housing type of affordable housing, those units get their fees waived.

>> Mayor Adler: Of course that doesn't cover completely, though; right?

>> Casar: I understand it doesn't cover completely, just --

>> Mayor Adler: So if there's a certain amount of affordable housing, you don't have to do parkland for that, which I think is great. But then the next question is, what do I -- what else do I do? What kind of density do I have? And ultimately there has to be -- there has to be a trade-off between the two. We can't -- we can't maximize either as much as we would like. And somebody is going to have to make a -- it's like a lot of the choices that we make up here ultimately there's going to be a trade-off. And I'm fine with that. I'm just -- I just think that somehow or another we need to figure out how that ultimate choice isn't made by Betsy alone, or by our park director alone, because they come in with different -- different goals, different places to come from. And I don't know -- so I need to think through that, too, in terms of -- in terms of the process issue. We're going to disagree on this dais on how those two things weigh with each other on developments that we're going to be considering here over the next two or three months.

>> Mayor Adler: Ms. Tovo then --

>> Can I just add to your point real quick? The pud we're discussing right now, we've had several conversations, is it just an example of this trade-off, one of the reasons was, we promised all this for open space or we promised all this for increased environmental protections, so we can't afford to do any more affordable housing.

[2:18:36 AM]

I do think there needs to be some kind of balance between those two things.

>> Mayor Adler: Ms. Tovo.

>> Tovo: Well, I think -- I think it's late, and obviously we're not prepared to have a long discussion about this right now, but I look forward to having that discussion because I think I'd be more likely to believe that there is, you know, a clear trade-off between affordable housing and parks, if we actually had and to review the financial information for developments that come forward and ask us for increases in entitlement because I think very often we hear arguments that it's going to be too expensive to do this or that from developers who are getting multi-million-dollar increases in entitlements. And so, again, it's late and I don't -- I probably should just leave my point there, but I'm not convinced it's a neither/nor. And I don't want to see us having increase -- you know, lots of new multifamily developments coming online, affordable or not, that don't have access to great -- to grit parks and open space nearby because for families who live in housing that's affordable, they need parkland just as much, perhaps more than others. They may be more transit dependent, they may have fewer options in terms of, you know, mobility around the city, and so, you know, I think it's even more important that we have open space and parkland near housing that's affordable. So I hope -- I hope we don't get into a position where one is



clearly a priority over another. I think it's really possible to have policies that encourage both, a good -- a good, healthy balance of both.

>> Mayor Adler: I agree with that. Ms. Gallo.

>> Gallo: I've got a question. Brett, you mentioned an amendment that helped at some predictability at the initial stages. Could you -- is that part of what we are voting on right now or is that something we need to add?

[2:20:36 AM]

>> The staff report contains some suggested code amendment language for the ordinance, and one of those -- and I was hoping that at some point before you voted, staff would call your attention to those amendments, but --

>> Gallo: Where are those?

>> They're in the staff report.

>> The ordinance review sheet.

>> Ordinance review sheet?

>> This is -- this would be amendment 2, and it was prepared -- I assisted the parks department in response to some of the stakeholder concerns, and it just goes to the issue of, I believe, the mayor was raising, among other issues, the question of how does a developer know whether they're going to be required to dedicate land or pay a fee, and what certainty they have as to how the ordinance would be applied. And this would essentially allow a developer, at the outset of the process, to obtain a determination from the director as to whether land or a fee would be required, and basically get the details of the parkland dedication or the fee worked out. And then that would be binding for the -- for a year.

>> Mayor Adler: I move to amend it to include that amendment.

>> I'll second it.

>> Mayor Adler: Seconded by Ms. Gallo. Any discussion on this? Those in favor including that amendment, please raise your hand. Those opposed? It's unanimous. What were the other amendments that --

>> Yeah, I'm still looking for that page. Where -- go ahead.

>> Mayor Adler: Brett, what were the other --

>> What are the others?

>> Mayor Adler: -- Amendments you have?

>> I'm with the parks department. The amendment 1 was -- it clarifies that parkland is dedicated with the site plan or subdivision and deeds to the city of Austin that the impervious cover, all impervious cover rights are not required by the development, and that can be negotiated towards the development of the property, the residential portion of the property.

[2:22:39 AM]

>> Mayor Adler: Say it again?

>> Impervious cover rights.

>> Mayor Adler: What about them?

>> That all the -- the parks department will not need a hundred percent of its impervious cover rights on the parkland that will be dedicated to the city, and a portion of that -- those -- whatever is determined, a portion of those impervious cover rights, the development could use.

>> Mayor Adler: Okay.

>> In the development.



>> Mayor Adler: I move to include that amendment. Is there a second? Any discussion? Those in favor, raise your hand. Opposed?

>> And the other two have been reviewed.

>> Mayor Adler: The other two what?

>> The other two --

>> Mayor Adler: Are already in?

>> Councilmember Casar had talked about the hotel-motel, including that.

>> Mayor Adler: And that's already in, I think?

>> Yes. And you've got all the amendments included now, 1, 2, and 3.

>> Mayor Adler: Got you. Thank you.

>> Yes.

>> Mayor Adler: It's the 2 o'clock way of doing things.

>> Casar: Sorry, mayor.

>> Mayor Adler: Yes?

>> Casar: Are you saying it's already in because I moved it or is it already in because of the motion? If you're saying it's because I moved I had --

>> Mayor Adler: Less there be any question, let's vote to include the other amendment that relates to --

>> Casar: I'm just saying amendment number one.

>> Mayor Adler: Just in case it's been moved by Mr. Casar --

[multiple voices]

>> I'm fine to vote all of them. I thought they were all in there, so --

>> Mayor Adler: And just in case they're not, Mr. Casar moves one about hotel-motel, second go ahead by Ms. Pool. Any discussion, those in favor, raise your hand. Those opposed? It's unanimous. Now we know they're all in, if they weren't before. Any other debate on this? My sense is, I want to figure out some of these things. I want -- this is crucial for the city, to have this ordinance, and it has to work. So I want to work on it, and I think there's still a little bit of work to do.

[2:24:44 AM]

Ms. Gallo?

>> Gallo: And since we have added the hotel-motel into this, I think it's really important because my guess is that those stakeholders may not even be aware of what we're doing, but I think that the process needs to make sure that they have been included in the discussion of the impact on them, so ...

>> Mayor Adler: Okay.

>> Gallo: As we work towards the next reading on this, I want to make sure that that group is brought into the discussion.

>> Mayor Adler: Ms. Tovo?

>> Tovo: I think that's a good point, though I want to just mention the original resolution, a year of a ago, or whatever -- there was a resolution that indicated and asked staff to look toward including hotel-motel tax, so I would assume that those stakeholders were aware that that was a possibility.

>> Yes.

>> Tovo: It was maybe the original was passed a year ago, something like that.

>> 2014. August 2014.

>> Pool: That is also the ordinance that set out the calculations for all of the --

>> December 11th ordinance pool that's right. It was almost a year ago that those were set out there.

>> Mayor Adler: All right. Now on the floor is the motion to approve on first reading. Those in favor, say aye.

>> Aye.



>> Mayor Adler: Those opposed?

>> No.

>> Mayor Adler: It is 10-1, Zimmerman voting no. We're done for today. We stand adjourned. Thank you, staff, for saying so late.

>> Thank you for hearing it tonight.

(END)