

# City Council Special Called Meeting Transcript – 02/13/2020

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[9:10:09 AM]

>> Mayor adler:all right. We've had a quorum walking in and out of the room that we're in. Today is February 13th. We're at the special called city council meeting on the land development code. We're in the council chambers. We have some people that have signed up to speak. I'm going to call them up. Everybody that's

[indiscernible] When I call you up, if you can raise your hand so that I know that you're here. Is Brad Laughlin here? Why don't you come on down and grab a chair. Is Tanya Paul here? No? What about Gus Pena? What about maury Shulman, Connor Mclaughlin, Austin Derrick, why don't you come on down, grab a chair. Thank you. Christopher Paige. No?

[9:11:10 AM]

What about Alisa Hoyt? Susan prior, why don't you come on down, Ms. Prior. Karen piper. Why don't you come on down and grab a chair. Is Scott turner here? Sir, would you come down, please. Then I think I have one more spot here. Is Katherine tuchek here? Come on down, please. If you'd take a seat at the table. Sir, you have one minute. One minute.

>> My name is Brad Laughlin, I live in district 9, an older neighborhood where -- with [indiscernible] Streets, if two cars are parked on opposite sides,

[9:12:10 AM]

only one car can pass in between. It's a problem for everyday traffic, problem for trash. The concern I have is a real emergency, if a fire truck or police car tried to respond to a call. It's gonna impede them from being able to make that emergency quickly. When there's an emergency we all need and want realtime, quick response. This is serious stuff. Now, when you add three units on a lot because the developer is taking advantage of the relaxed code then you're going to have six vehicles associated with the three units. More if there's teens living in a home or six unrelated individuals. I'm afraid that our planners are using maps and statistics to impose social engineering [indiscernible]

[ Buzzer sounding ] Wowed regard to the actual conditions and promoting

[9:13:10 AM]

changes we don't have the infrastructure to support. I don't think they've been to the neighborhood. I'd urge you to slow down the process and see the context in which these rules are trying to be applied.

>> Mayor Adler: Thank you, sir.

>> My name is Austin Derrick, I live in district 9 as well. I'm here to kind of voice my opinion that slowing down is kind of the goal, trying to get public debate going. I think at least in my neighborhood, in the St. Edward's neighborhood, there's a lot of young families there, I've only been there about six years now. I think most people don't know exactly what's going on. I know there's been a lot of information out there, but I think slowing down and making sure that everybody is on the same page is the way we need to go. I think that, you know, a lot of people don't want any change. I'm not necessarily for that. I'm for change. I know this city is growing rapidly, so I know we need, you know, ways to get urban density better, but I do think that slowing down,

[9:14:11 AM]

being able to have a lot more debate about it and talking amongst community members and people that live there is a little bit more the way to go. So I just encourage everybody to keep on talking about stuff so that we can figure out the right way to handle this.

[Buzzer sounding]

>> Mayor Adler: Thank you. Ma'am.

>> I'm Susan prior, and as a property owner and resident of Austin since 1969, my experience with the city of Austin in these areas that I have lived has not been positive in regarding to zoning property rights. The areas I've lived in include heritage,ing

[indiscernible] And Hyde park. The city informed me that deed restrictions are not the responsibility of the city to enforce and any violations would have to be dealt with in civil court. In addition my neighbors built [indiscernible] Is also to be dealt with in the court room. In the '60s the city decided that heritage

[indiscernible] Over the objections of the property owners upzoned the property to multi-family housing. This allowed developers to

[9:15:11 AM]

put in multi-family housing in the heart of these neighborhoods. Property values decreased and crime increased. The need for single family safe neighborhoods especially in the surrounding area continues to grow, as west campus was developed into dense student housing, families tried to find ways to buy and protect their homes. Historic zoning was one of the first attempts as structures were designated historic, surrounding homes thought to be safe and people purchased these homes.

[Buzzer sounding]

>> Pool: Mayor, I'd like to ask the speaker to finish her sentence since she was the righted in the middle of it. Thank you.

>> I'm sorry. I don't remember where I left off. I just want to say that we're just hoping that this can be a phased in approach and the neighbors can be in charge of their own destiny. Thank you.

>> Mayor Adler: Thank you. Ma'am.

>> I'm Katherine tuchek, president of the blackline neighborhood association and

[9:16:14 AM]

we request equitable zoning off the corridors and mapping of the capacity. We ask for our councilmember in district 1 to stand up for equitable mapping of capacity and blackland 76 interior lots are being rezoned to r4 or rm1 of 167 interior lots, unfathomable 46% in a 1.1-mile perimeter. What I'm saying is making numerical sense. Please mark UT state property as not residential because when you look at the map what you see is that we have a lot of residential that we don't have. We have six blocks, 1.15 blocks wide. That's it. Please zone manor no different than mlk. We have two lanes on manor. We would like the same zoning mlk is getting also on manor. In addition we further request that the corridor be r3 and go no further than

[9:17:14 AM]

one lot.

[Buzzer sounding]

>> Mayor Adler: Thank you.

>> Tovo: Mayor,.

>> Mayor Adler: Yes.

>> Tovo: Ms. Tucheck, I'm not sure if you have already provided us with that data. I apologize I'm not remembering seeing it but if you wouldn't mind emailing it so all of us that would be helpful.

>> I will do that. I stayed up all night and counted.

>> Tovo: Thank you for doing that. It is -- having done that in a couple neighborhoods it's a huge challenge with a paper map so I can't imagine what it was like with a digital so thanks for providing that info.

>> Thank you.

>> Good morning, mayor, council. As you consider amendments and the proposed dramatic reduction in transition areas, I'd like for you to ask yourselves how is this equitable? How does this change the historic land use patterns of our city, meet the promises you all made back in may to get enough housing capacity for people to be able to afford to live here and the importance of missing middle in that capacity? How does this limit access to housing, schools, jobs, and other opportunities for all of our citizens?

[9:18:16 AM]

If the answers to those questions preserve the status quo, if they won't make Austin a compact and connected city it's clear that the ghost of the seven member at large council still walk these halls. I would ask you to dispel these ghosts, the fear-more housing that exists on the dais and out in the community and give us a code that we have waited eight years and paid over \$8 million to see. Thank you very much.

>> Mayor Adler: Thank you. Ma'am.

>> Good morning, mayor Adler and councilmembers. My name is Karen piper and I'm a resident of the Hancock neighborhood district 9. I would like to thank councilmember tovo for her continued support of our historic central Austin neighborhood, for letting the neighborhoods contribute to development. I was wondering if I could pause my time to bring a match my neighborhood up.

>> Mayor Adler: You mean to hand out a copy?

>> No. Yesterday I was watching and you were able to bring up an

[9:19:16 AM]

area that we could talk about.

>> Mayor Adler: Sorry. Those are things that people have brought.

>> Then I'll just speak. Per the Idc I'm zoned r4 being a block way in Duval and in a transition zone. I'm in easy walking distance from two others, 38th and red river. This area is bound before id by red river and 32nd street. I have three children, and two middle school and one in -- at pre-k. I have concerns with this Idc and student safety very valid for this area.

[Buzzer sounding] I'm only halfway through. Beginning around 7:40 kids and parents walk in all forms, biking, walking, car. I back my car into my driveway because I'm afraid of hitting someone. Harris avenue is regularly bottle necked with cars on both sides.

[9:20:17 AM]

And cars are yielding to other cars because it's down to a single lane. The density proposed through the number of transit corridors in the small area is just irresponsible and impossible to fathom. Please slow down this vote and produce a smart code that incorporates insights from the communities that are being mostly impacted. And effectively address this affordable housing. Thank you.

>> Mor Adler: Thank you.

>> I'm sorry for my emotional start.

>> Mayor Adler: That's okay. Everyone is emotional on this. People are diametrically opposing viewpoints are very emotionally involved in this, but thank you very much for coming. I think Katherine tuchek was the last person I called. Let me call Jason birch. Why don't you come on down and sit down here. Is Jerry Spence here? Jerry Spence? Come on. Alex mead? Come on down. K.J. Gray.

[9:21:19 AM]

Come on down. Is Lisa gray here? Okay. So if you're ready to speak would Lisa gracious you'll -- gray you'll have two minutes. The others have one minute.

>> Good morning, everyone. I sent an email last night entitled density parking in New Orleans and I hope you all will have the chance to read it. It is a plea for council to consider the role of the corner business and corner jobs in a compact, walkable city. I'm holding out hope for a compromise that will provide a more elegant solution to this process instead of the Frankenstein monster we are creating. We have a rare opportunity to move the needle. We shouldn't below the engine. And a sweep of r3 across the entire city would have been an easier sell. As long as we're taking

[9:22:21 AM]

tough decisions about zoning, perhaps now is a good time to take a look at some of these capital view corridors. Some of them are

[indiscernible] And others are redundant but all have the effect of keeping downtown Austin developmentally challenged. We should explore every opportunity to build straight up and make it easier to do so. I strongly believe that there's a less disfunctional way to develop our resources. There's so much more I'd like to say but I'm going to go ahead and leave it at that for today. Thank you.

>> Pool: Mayor, I wanted to offer something to Mr. Birch. I just wanted to mention that the capital view corridors, because we struggle with that, too, that's legislation and statute that the state legislature has imposed.

>> I believe some of them were laid down on the state. Of course we want no argument with the state. But weren't most of them --

>> Pool: You're talking about the ones that are beyond what the state has legislatively --

>> Some were put down been council.

[9:23:21 AM]

I believe we recently passed one from east Austin.

>> Pool: I think there was some recognition that people on the east side of I-35 would also like to see the capital instead of the back side of a high-rise, so, yes, that's correct, but it was based on the predicates that the state legislature had put down.

>> Okay. Is it possible to repeal the ones the council has instituted?

>> Pool: I don't know. I don't know if it's possible or impossible.

>> Could we look into that?

>> Pool: I was just offering a little bit of context and also for me to understand which view corridors you were talking about.

>> Okay. I'll send an email.

>> Pool: Thanks.

>> Good morning. So I -- here I was actually very pleased to see on the agenda a resolution to allow more resources and time for individual neighborhoods to do their own mapping because that's exactly

what I was here to ask for. I won't repeat a lot of the concerns that I share with the other people that were up here, that regardless of

[9:24:21 AM]

however many years you have spent and how many millions of dollars, it is a waste of mind share, intelligence, skill to not include the neighborhoods in this process, which is not happening right now. We've actually -- and I'm a member of the cherrywood neighborhood, and our neighborhood association has put together an alternate map that actually adds density in our corridor rather than taking it away. We have creative ideas about affordability that we can accomplish with partnering with viable entities doing things -- doing good things and good works right now.

[Buzzer sounding] And we want you to hear about those ideas.

>> Kitchen: Mayor, I just want to repeat as I have done in the last two days, to let you know that we will -- I expect we'll have a conversation later this afternoon that our staff will let us know their thoughts on moving forward,

[9:25:23 AM]

including their thoughts related to listening to the neighbors that have contributed plans like we said we would take in the fall.

>> Okay. Thank you.

>> Good morning, I'm Alex mead, appearing as the president of the university Democrats of the university of Texas at Austin. We're proud to support the land development code rewrite process. We have a couple suggestions related to the latest draft. First we hope council will adopt the amendment suggested by Ora, something that all people speaking on behalf of Ora or were speaking to go into more detail on. Second we hope the council will amend the university neighborhood overlay by expanding west campus and removing step downs. This is something discussed on February 14 during uno amendments and at that time mayor Adler said those discussions about mapping would be better suited for the land development code process. Well, this is the land development code process. And now is the time to ensure that west campus has

[9:26:24 AM]

enough housing for future generations of students. As students we're faced with a housing market that was not built for us, an environmental feature that grows less sustainable by the way. So this land

development code combined with our suggested amendments will help ensure a sustainable housing and environmental future for all and we hope you'll support it. Thank you.

[Buzzer sounding]

>> So last night I was walking and it seemed like there was discussion about changing transition Zones from r4 to r2, it would be upsetting to lose that much units. Instead of along the lines of taking r4 to r2 in transition Zones take it from r4 to r3 and make all corner lots r3, which is something the council voted for but didn't make it into the second draft for some reason. So I think that might be a compromise where we get the number of units but maybe take away some of the concerns, another concern I don't know if I have time to

[9:27:25 AM]

get through is is on the preservation bonus, one thing that changed, was in the second draft but apparently a mistake, was we're going to take 100% of the front facade had to be preserved. This will drastically reduce the number of units that can use the preservation bonus because a lot of lots are -- I'm not saying that none of the front facade should be preserved but maybe 80% would be allow more units to be preserved and still use the preservation bonus because if it 100% those housings are going to be torn down. There's no way to preserve the entire front facade in that case so 80% would work fine.

>> Mayor Adler: Thank you very much. Thank you, panel. Is Joseph wisenbloom here? Why don't you come on down.

[9:28:27 AM]

Has anybody else signed up to speak they've not called? And you've signed up on the message board? I might have called your name earlier. Come on down. Why don't you come up and sit at the --

>> [Off mic] Floodplain.

>> Mayor Adler: Not unless someone on the council invites you to do that.

>> Kitchen: I would like to invite him to do that.

>> Mayor Adler: Okay.

>> Flannigan: Mayor, I'm fine if folks are here in this moment if they want to come up and speak, I think that's fine.

>> Mayor Adler: Why don't you come on down.

>> [Off mic]



>> Mayor Adler: That's okay. Have a seat. Have a seat. I'm sorry?

>> [Off mic]

>> Mayor Adler: Good. Go ahead and have a seat. Introduce yourself, please, and you have a minute.

>> Mic.

>> Mayor Adler: Hold on. On the base.

>> Hello. District 1, homeowner, Joe wisenbloom. I'm here to speak in favor of allowing more density within the new land development code.

[9:29:28 AM]

Specifically I would like to see high restrictions eliminated and limiting parking minimums and most importantly allowing more units built per lot citywide. Hopefully at least three units per lot. I'm not very happy with the second draft of the Idc. And, you know, more on behalf of the people that are not here today, from hearing citizens you would think that increasing density is very out of favor, but, you know, there's a very large silent majority that are not speaking out on behalf of this because they can't take the luxury of coming to city hall at 9:00 on Thursday morning so I want to speak on behalf of those people. And those are the people that really need this?

[Buzzer sounding] That afford to live in the city. Thank you.

>> Mayor Adler: Thank you very much. Sir, introduce yourself and you have one minute.

>> One minute?

[9:30:29 AM]

>> Mayor Adler: Yes.

>> Chris Paige, district 1. I thought we had two minutes so I'll just kind of cut down to whatever I think is relevant. I think we need to make sure that the equity overlay that has been put in place is persistent. I know planning commission suggested they're going to revise zoning on a regular basis going forward. So I don't want to see any bait switch in three or five years. I think that this council needs to exercise restraint and patience. A lot of the -- allow the community to come forward with all the problems they're finding as quickly as they can. That information is free. It's cheap from the city. It improves the quality of the product. Also, I think that you need to be mindful of yield quality, not just yield. And I think that requires a much greater attention to context sensitivity. I was kind of appalled last night when I heard you suggest that there was a

[9:31:31 AM]

single issue in terms of transition Zones that you wanted for the --

[ buzzer sounding ] Opposition votes acquiesce. I think it's a complex discussion that needs to be fully had. Thank you.

>> Mayor Adler: Thank you. Go ahead.

>> Hi, I'm list is a Hoyt, I live in Hancock district 9. I think if I could boil it down to a central issue and there are a lot of them that I see to me it's that Hancock is already living urban density and mixed use, and the code unfairly makes Hancock bear the brunt of additional units compared to surrounding neighborhoods. If the council is committed to stuffing Hancock beyond a comfortable capacity please move it closer to I-35 and pass the amendment to help us -- to let the neighborhoods have more input. The duplexes on either side of my home currently rent for \$1,600 a month, which is as affordable as it's gonna get with new development it's not gonna be more affordable. I was the first person in my family to go to college and law school. I grew up in a next at Duval

[9:32:31 AM]

and rundberg, I'm from here, I started on the east side of Austin. I've worked hard so that I could be financially better off than we were as children. I am -- I went to law school. We worked hard and I was thrilled to buy a home north of UT and Hancock and make that our home close to my office for a short commute. I'm now being told that it's selfish of me to oppose the building of a major transit corridor a block away from my home, the one on Duval and I should have anticipated the code changing so we wouldn't have space to park our cars in front of our home. I feel having one minute to plead my case for my neighborhood is extremely inadequate. I believe that it's a farce to say that this is a complete --

[ buzzer sounding ]

-- Offering of community input and I really ask you to think about these things. Thank you.

>> Mayor Adler: Thank you. Sir, please introduce yourself and you have one minute.

>> My name is paulusos. I spoke to you Tuesday for

[9:33:31 AM]

two minutes and I listened last night to councilmember kitchen's presentation of the bus issue and having transition Zones based on -- as part of that and I felt there was confusion so today I thought I'd speak for a few seconds. Also I gave you an additional copy of my presentation and also I gave you a

map of issues we have on Westgate. And the other thing I want to say from last night is that the Westgate is different, so I think planning you need to consider this neighborhood separately.

[9:34:32 AM]

We have people there, old people. Mr. Renteria's son used to live down the street from me, three years ago. We have Mrs. Castillo next door who was going to speak but she was sick. So give us [indiscernible] Give us a chance to come back.

>> Mayor Adler: Thank you for the materials that you've handed out on the dais. Thank you.

>> Kitchen: Mayor?

>> Mayor Adler: Yes.

>> Kitchen: Mr. Russo, I will continue to work with you and your neighborhood. I understand your concerns that you're raising about the uniqueness of your area and the porches us considering the impact of what we're doing. So we'll continue to work with you and your neighbors.

[9:35:33 AM]

>> Thank you. I want to say also we lost two more neighbors that moved to Buda.

>> Mayor Adler: Okay. Thank you.

>> Thank you.

>> Tovo: I, too, wanted to thank Mr. Russo and Ms. Hoyt and the others who emphasized how valuable those who live in a community can be in terms of helping and figuring out -- using their insights and their knowledge from being in neighborhoods to suggest where and how the density can be -- could be placed. So thank you for coming down today to make that not council about your interest and being engaged and involved and the value that people who actually live in these neighborhoods would bring to the process of planning.

>> Mayor Adler: Mr. Renteria.

>> Renteria: Just to let you know my son just moved up the street. He's still in Ann kitchen's district, so it -- he wasn't displaced. We haven't done anything.

[9:36:33 AM]

So he --

>> [Off mic]

>> Mayor Adler: Sir, please. Thank you, councilmember Renteria. Colleagues, that gets us back up on the dais. I'm going to try and pick up where we left off yesterday. I think we're on page 10 of 19. I think we're at tovo 2. Any discussion on this? We have asked staff to come on down and join us at the table.

>> Tovo: I have some updated language I'm bringing forward so if we could pass on that for now.

>> Mayor Adler: Okay. Let's table tovo 2. What about tovo 3?

>> Tovo: Yeah same.

>> Mayor Adler: Okay. Table --

>> Kitchen: I'm sorry, mayor. We're -- you're moving fast fast -- could you please repeat what you were saying?

>> Mayor Adler: We're on page 10 of 19 of V. We are toward the top of it. We were at tovo 2 and

[9:37:37 AM]

tovo 3, and councilmember tovo has asked that they both be tabled.

>> Tovo: Though I know mayor pro tem Garza and councilmember harper-madison pulled both of them so if they have questions, but we do have updated language coming down.

>> Mayor Adler: As soon as you could get that circulated we would all appreciate it. Tovo 9 I think was withdrawn. In deference to Ellis one. Were combinednd handled there nap -- that gets us to alter 3. I think mayor pro tem pulled this. Any discussion on alter 3? We ready to vote? Let's take a vote on alter - councilmember alter.

>> Alter: If there are not concerns I won't speak to it. If there are concerns I will speak to it.

[9:38:47 AM]

>> Mayor Adler: Staff, did you already do this? I'm sorry. Is it alter 3?

>> Mayor Adler: Yeah. We agree. But did we already do it?

>> Mayor Adler: Mm-hmm.

>> Mayor, we had a prior direction in December. This is actually saying they went and they did that, and it's just suggesting that they need to maybe keep working on tailoring that mapping to the context of each individual activity center. And I think I believe what

[indiscernible] She said we need to continue tailoring it.

>> We can continue to look at the centers as we map them between now and second reading.

>> Mayor Adler: Okay. Between now and third reading.

>> Third reading.

>> Mayor Adler: Thank you.

[9:39:48 AM]

>> Garza: That was my only concern, is that I thought this was something staff had already done.

>> Mayor Adler: Any objection to this amendment going in? Hearing none, this amendment goes in. That gets us to the group residential. I think the next one, Adler cc1 is already in.

>> Tovo: Mayor, we can take up the Rainey ones now. I was mistaken. The language had already been updated.

>> Mayor Adler: Okay. Let's go back up to the page tovo 2.

>> Tovo: I'm going to move approval of these. We've had a lot of conversations over the last months, longer, years, I guess, but certainly more intently over the last couple months about the situation in Rainey. Some of the mobility challenges that are present at the moment they're in the midst of a pilot program of closing down the street during certain hours because of the mobility challenges. And so there have been

[9:40:51 AM]

several studies -- or the ae com study was recentlied and made some recommendations. I know transportation staff is also looking, but at this point to me this is -- this is a perfect example of why we need a more phased approach. I believe changing the F.A.R. At this point, when we know that the exist occupancy and existing development and multiple, multiple projects that are in the works and will be coming forward soon and being built soon, we -- the current situation is untenable. The future development that's already in progress is going to exacerbate those conditions, and at this point we have not passed any concrete infrastructure improvement plans nor have we funded them. So I think the most responsible path at this point would be to hold the line on the current entitlements until the time where we have actually passed and funded improvements that are going to make the situation better an safer.

[9:41:56 AM]

>> Mayor Adler: Okay. We're going to take a vote on this, tovo number 2.

>> Tovo: I have a last question for the staff. Can you tell me who made this recommendation, where this recommendation originated?

>> The recommendation for the Rainey study.

>> Tovo: No, no. The increase in F.A.R.

>> Good morning, Greg did Dutton, planning and zoning. That was part of the change to the downtown density bonus program that was proposed in the first draft and part of council direction in may was to kind of increase the amount of affordable housing and housing downtown. So it was following that direction from council.

>> Tovo: Okay. So it was a staff proposal.

>> Yes, in response to council direction.

>> Tovo: Thanks.

>> Mayor Adler: Okay. Ready to take a vote. Those in favor of tovo 2 --

>> Kitchen: Mayor, I'd like

[9:42:57 AM]

to ask that we do this the same way. If people have objections, if they would please tell us so we can have a conversation about them.

>> Tovo: Mayor, thank you -- thank you for raising, that councilmember kitchen. Two of my colleagues pulled this so I'd love to hear your questions before we vote on it.

>> Garza: I don't have a question. It was my understanding staff did not agree with this because it wasn't I guess in line with our -- or if they had made a different recommendation so I was agreeing with staff.

>> Mayor Adler: For me on this, we've discussed Rainey at length. It's come up numerous times as we were doing the may work a year ago, it came up while we were doing work in the fall. Everyone of these questions is about -- and it's -- obviously traffic is bad all over the city. It would be great if we could make everything good everywhere in every way all at the same time.

[9:43:57 AM]

And we can't. So we have to make a balanced proposal, as best we can, each of us making an individualized determination as to where we think that appropriate place is. And for me, what is currently there reaches the appropriate balance. Further discussion? Councilmember alter.

>> Alter: --

>> Tovo: I'd asked my colleague if she had any questions if she could --

>> Mayor Adler: I heard you and she can speak if she wants to.

>> Tovo: Mayor, I think if people have concerns and pulled it from the consent agenda, it would be nice with the colleague who made the amendment. I'll just note I think what we have going on in Rainey far exceeds the kind of traffic that we're looking at anywhere else. The situation. And I would ask transportation department to verify this but we are closing down the street because the possibility of vehicular pedestrian implicate is -- conflict is

[9:44:58 AM]

so high in that area. It is far in excess of what we're seeing on other streets in other parts of the city, and I'll just remind you that when we had this discussion in the fall it was just about this issue. It certainly wasn't -- this issue has not been resolved. And so -- and when we had that conversation, we also talked about the incident where a pedestrian was hit by a car. We have some very significant challenges on Rainey and the fact that we've had conversations about them recently doesn't mean we've actually implemented any solutions. I'm excited and supportive and of course brought forward the resolution to do car-free Rainey but that is a pilot program and what is necessary and needed for the current situation and the ongoing development are longer-term mobility solutions, such as the potential extension of red river, such as the extension of Rainey potentially, potentially other things as well. Those are not approved plans, nor have they been funded. So we're just, again, exacerbating -- potentially

[9:45:58 AM]

exacerbating a situation that is already very concerning and in the eyes of many unsafe.

>> Mayor Adler: Okay. Councilmember harper-madison.

>> Harper-madison: I appreciate you pointing out that I'm perfectly capable of speaking for myself and advocating for myself and my concerns, but I'd like to point out to my colleagues that your request for further deliberation or explanation on my position is a request, and I can respectfully decline. So if I don't offer my perspective on my concerns, it's because I chose to.

>> Mayor Adler: Anyone else want to speak? Councilmember alter.

>> Alter: So I just want to clarify what I heard from staff was not that you were recommending this but that you were following council direction. So this is not necessarily coming, as I'm understanding, this is not necessarily coming from a planning principle. It is coming from council directed you to do this and you can do it and so you did

[9:46:59 AM]

it.

>> Mayor Adler: Okay. Those in favor of tovo 2 please raise your hand. Kitchen, alter, pool and pool -- tovo, pool, kitchen and alter. Those opposed please raise your hand. The other seven on the dais. Does not pass. Gets us to tovo 3.

>> Tovo: Which I imagine will meet the same fate, but let me just say I hope that this is not a sign of what people in transition Zones can anticipate in terms of support for the infrastructure that's going to be necessary to make those situations livable and safe. If there is the kind of significant redevelopment that could flap those significant upzonings. I'll just make the point to those who are following this but maybe don't know the history, when the area of Rainey was significantly upzoned there was also a commitment to provide the

[9:48:00 AM]

infrastructure necessary to make -- to keep up with the increased residents. That area has grown and changed much more -- has redeveloped much more rapidly than anticipated. The infrastructure has not kept up. And so, again, as we're looking at what are very significant upzonings in areas that are at this point in some people's estimation I will equipped offend handle additional residents, I hope that we will do things differently and really commit to providing the infrastructure that would make those areas workable.

>> Mayor Adler: Okay. Those in favor of tovo 3 -- councilmember pool.

>> Pool: Councilmember tovo, I wanted to ask -- well, I wanted to point out that it seems to me that your item 2 and this item 3 are a request for us to have some planning in a comprehensive manner to ensure that we are

[9:49:04 AM]

not inadvertently making things worse. And with the hope that, through planning, through the principles of planning for development that we would end up with better outcomes than we often see when planning is absent or decisions are made without sufficient input as to conditions on the ground. Would you say that's generally what you were hoping and aiming for on this?

>> Tovo: Yes. I think in this case we have some very good information about some of the mobility improvements that are really necessary in the short-term and in the long-term for that area. And so



having actually be down the road in committing to approve and fund those is very directly what I was asking for before we make a zoning change that would increase the level of density in that area.

>> Pool: Thanks. And my remarks on these two

[9:50:06 AM]

items by pointing out that it feels to me like in some instances we are very much going down into the guts of the issues in a granular, detailed way, and in other instances we are trying to remain at a higher, more comprehensive overview kind of planning stance. And I would urge my colleagues to look at -- well, I guess we already voted on 2, but on 3 and other of these amendments that we appreciate the comprehensive nature of the work we are attempting to do here because it doesn't feel like that's the way the votes are falling.

>> Mayor Adler: Okay. Those in favor of 3 please raise your hand. Those opposed. It's 7-4 against tovo 3. All right.

[9:51:06 AM]

That gets us then down to Roman numeral section 4,, affordable housing. This is harper-madison 6.

>> Kitchen: Mayor, I have a note that you pulled that one.

>> Mayor Adler: I did pull this one. I pulled this one because I wasn't sure -- I was having difficulty trying to understand it and see what the implications were. That's why I have pulled it. Anyone want to discuss harper-madison 6.

>> Harper-madison: I'm happy to offer some clarity if needed, but I think the clarification that I received was both by way of staff and our legal department. So for any technical questions I would defer to

[9:52:07 AM]

staff.

>> Mayor Adler: Councilmember pool.

>> Pool: So I would have the same question on the cup on this that I had yesterday. Given the nature of group residential and the site-specific location of them in neighborhoods, what process might there be that the city offers that will get the input of the people who are adjacent to and in the vicinity of this plan change in order to have input into the decision process? The.

>> Councilmember pool, this amendment as it's framed would require a C.U.P. For the less incidence Zones between the r3 and r4.

[9:53:09 AM]

So that requires the special use process established through the C.U.P. Procedures.

>> Pool: Could you for the benefit of me and those listening in, could you also provide information like you did last night about the process and whether there are opportunities for stakeholder input and appeal?

>> Yes. The C.U.P. Process is largely -- is largely the -- carried over from current code, and that involves mailed notice of application, an opportunity for comment prior to a public hearing and then there's an opportunity for appeal of the decision of the commission to council.

>> Mayor Adler: I'm sorry. Councilmember tovo.

>> Tovo: I have a few questions. So there's later group

[9:54:10 AM]

residential amendments as well, councilmember harper-madison, and I think you revised a few and I don't need make sure that I'm understanding which ones -- for which ones do we have new amendment sheets? Is it number 8 and 9 -- actually, I may have the wrong numbers. I think I numbered mine with the old numbers.

>> Harper-madison: Are you asking me a question?

>> Tovo: I did, thanks. You brought forward also -- and it's on the next page, a different definition --

>> Harper-madison: It's number 8.

>> Tovo: Some changes to the definition for group residential.

>> Harper-madison: Correct.

>> Tovo: And changes to the definition for cohousing.

>> Harper-madison: Correct.

>> Tovo: Did you distribute new ones on these from what posted?

>> Harper-madison: I thought we did yesterday.

>> Tovo: As we're talking about this amendment I want to know which other ones I need to look at since they all kind of relate to the same thing.

>> Harper-madison: Kind of.

[9:55:10 AM]

What we're talking about here is the C.U.P. Element so I don't want to cause any confusion because the latter item, the number 8 item, is somewhat confusing by way of the very specific delineation between definitions. So if we could just stick to this one for now, I think that would be helpful as to not confuse people trying to follow along because that one is -- the latter one is sort of confusing.

>> Tovo: Okay. I think in your original amendment the group residential definition was changing to six people per bedroom but then I think you updated it and that's the updated language I'm looking for but I have it here somewhere. In the proposed code group residential would be allowed in r3 and r4.

>> In residential house bill, yes.

>> Tovo: So it would not be allowed in areas that are currently r2?

>> Renteria: Mayor, are we doing 6 or 8?

>> Mayor Adler: We're doing 6, harper-madison 6.

[9:56:13 AM]

>> Renteria: Okay. I don't understand the question about --

>> Harper-madison: I'll explain it to you. I understand.

>> Tovo: So I'm asking -- I'm asking -- I'm trying to understand the amendment that's before -- now I'm trying to understand the amendment that's before us to allow group residential in other residential categories. But there are two prongs here in terms of the amendments that councilmember harper-madison is offering. One is changing the definition a little bit, and this one would allow it in more Zones. And so I think they're related. I regard them as related because the definition of group residential helps us understand what's happening in it and we're potentially applying it to increase Zones with this amendment that's currently before us. So this would allow group residential in any residential category, basically? Is that your understanding of the amendment?

>> Yes. Through a C.U.P. Process.

>> Tovo: Those would always

[9:57:14 AM]

be public hearings, as you've explained?

>> Yes.

>> Tovo: At planning commission, appealable to council?

>> Correct.

>> Tovo: Where are group residential properties currently allowed?

>> Currently the group residential use starts at r3 and more intense.

>> Tovo: I'm sorry. I meant in current code.

>> Oh, in current code. Need one second to look that up.

>> Tovo: Also, if you could provide us with sort of a general description of group residential. Is.

>> In current code residential is allowed starting -- it starts with a C.U.P. In the mf-3 district. And the use is separate

[9:58:14 AM]

sleeping units around a common area of some kind. For group residential it means all of the sleeping units and the common facilities are in a single building, so it's what you might think of as a dormitory, that kind of setup.

>> And so currently -- so currently it's allowed in mf-3 and above but only through a C.U.P.?

>> It starts in mf-3 with a C.U.P. Thereafter in the mf Zones it's a permitted use.

>> Tovo: So I would assume that your recommendation for putting it in the r3 and rm1 categories in the proposed code is that it's -- those are similar zoning categories to mf-3.

>> I mean, the r3 zone is not assonance as mf-3, but the -- I'd have to look, but my recollection is that we did get direction previously to allow that use, that type of use in more Zones.

[9:59:15 AM]

>> Tovo: So this is potentially a change between first and second reading based on the amendment that passed?

>> I think we'd have to look, but my recollection is that we did get direction and I don't recall if it was first reading or in may, but to allow that type of use in more Zones.

>> Tovo: So can you help me understand the staff's recommendation for not putting it -- not putting group residential, which can also include fraternities and sororities, as I understand, can you provide

some explanation for why the staff recommendation was not to put it into r2, which is equivalent of single family 3.

>> So group --

>> Tovo: Not equivalent but what those are being remapped as.

>> Our thinking there was that the r3 zone is where you start to have three -- you can have three units in a building like a triplex or a multi-family type of building. That's kind of where you

[10:00:16 AM]

might get into the development type that has multiple bedrooms around a common facility. If it's less intense than that, in an r2 zone, a group residential use it would potentially just look like a house. I mean, a house can operate in the same type of way, the way that you have a common -- you have a kitchen and you've got bedrooms and so it's operating the same way.

>> Tovo: My question was, why did the staff initially have those uses at higher levels of residential rather than at lower levels of residential?

>> So in the r2 Zones, I guess what I'm trying to say is that a house, like a single-family house you imagine operating is looking and operating the way a single-family house does,

[10:01:16 AM]

can have unrelated individuals in it and it would operate the way a group residential use would operate also. It has a kitchen, bathrooms, bedrooms, and so it's organized the same way. There's really actually no difference. It's just the indent is less.

>> And the standard occupancy of a single-family house would allow a single-family house to operate like a group residential without meeting the differentiation. It's when you get above a single-family house, when it has a larger structure that you need to alter the occupancy rate to allow more individuals to live there. So that's when group residential really becomes a operation -- or a separate use. So below that a single-family house could be a co-op and operate just the same. It doesn't need a special use for that.

>> Tovo: Okay. We're not completely getting -- I'm not completely understanding why

[10:02:17 AM]

you didn't recommend this, but that's okay. I mean, I think we know from practice that group residential fraternities and others do tend to operate differently from single-family houses and duplexes, which I assume was part of the reason for having them in higher levels of residential. But in any case, I'll leave it for the moment. I have an amendment later and had an amendment that failed the first time around that dealt with asking staff to -- asking staff to clarify and see if we can separate out the definitions of cohousing and group residential so that we could make certain provisions for cooperative housing based on their ownership structure and group residential, which would seem to me more appropriate for higher residential categories. And, you know, I don't know that there are many fraternities in districts other than 9, but as I offer

[10:03:18 AM]

it on the first read through, many of them are located in one part of district 9. And when we've had a couple examples in more -- in lower density areas, it has caused pretty significant conflict for their neighbors and, frankly, probably for the fraternity themselves because I don't think anybody appreciates having the police called for parties and other things. Obviously not all fraternities operate that way, but when you have higher levels of -- I think there's a good reason to have those higher occupancy kinds of properties in certain areas. So I'm not going to support this for the moment. I would encourage us to think about whether there's an opportunity here to talk about cohousing and group residential a little differently because I do think their locations might be in different places.

[10:04:20 AM]

This would -- that's all.

>> Mayor Adler: Councilmember Ellis.

>> Ellis: I would not support it in r2, but appreciate staff coming back with r3 and 4 so I won't be supporting this.

>> Mayor Adler: Councilmember pool.

>> Pool: Staff, could you tell me what section this particular group residential permitted use is in?

>> It is in 233c3030.

>> Pool: 233c3030. And then can you tell me where the cohousing section --

>> That same section, it lists all uses allowed in the residential house scale.

>> Pool: So we are changing the cohousing definition to allow -- the way it is

[10:05:20 AM]

currently is two unrelated individuals in each sleeping unit and this is proposed to be increased to six? 1219, that's the cohousing definition. How does that impact the group residential permitted use, and does that also mean that the number of adults permitted in each sleeping unit increases to six or something larger?

>> Just to clarify, the amendment -- that's a different amendment. The occupancy change.

>> Harper-madison: Thank you.

>> Pool: So I thought that I was just told it was in the same section, that they're all in there together. I'm asking when you're in the same section legislatively, frequently elements of one subparagraph, depending how they fall in statute, can affect another one. So I'm asking for staff to clarify that these two don't overlap in any way, and I'm specifically asking if we make the changes to group

[10:06:22 AM]

residential permitted use, are we also opening the door to unrelated -- up to six unrelated adults per sleeping unit?

>> If we just made a change to the permitted use chart regarding the conditional use permit for the current amendment, then, no it, wouldn't impact occupancy.

>> Pool: For which?

>> For group residential or cohousing. If there's a later amendment we understand that does discuss --

>> Pool: That's what I'm talking about. So if we passed the cohousing definition, it's in the same section - - maybe Mr. Lloyd would like to take this one. Is there a good wall between the group residential permitted use and the number of adults permitted in each sleeping unit that keeps it separate from the cohousing definition which purports to increase the -- each sleeping unit may be occupied, it does say, by no more than two unrelated

[10:07:24 AM]

individuals, and I think that was an amendment that mayor Adler made back a few years ago when we were talking about I think it was short-term rentals or maybe ads -- I think it was short-term rentals ordinance. This now would increase that two unrelated individuals up to six in each sleeping unit. That's a maximum in the cohousing. So I want to know, is that provision applicable to the group residential permitted use that is also in 233c3030.

>> So to clarify, the 233c3030 is the permitted uses in the residential house scale so it lists in the chart all of the uses that are allowed in all the Zones of residential house scale. The definitions of the uses are in a completely different section, and if you alter the definition it would relate to the permitted uses because the definitions of the permitted uses. However, at this time we're primarily just discussing group residential as it's defined in the draft code

[10:08:25 AM]

and then there's a separate amendment by councilmember harper-madison to redefine group residential in a later amendment.

>> Pool: Well, you're describing exactly what I'm saying, is there's a later amendment in the same section that would affect the number of unrelated adults in each sleeping unit. My question to the panel -- and so far I haven't gotten an answer yes or no -- does the change to group residential permitted use, is it affected by the potential amendment which comes two pages later? It's a pretty -- I think -- and I was advised that 233c3030 is the same section for harper-madison 6 and it is for harper-madison 8 but now I'm being told it's in a different section so I'm really confused.

>> To clarify, yes, if we take up councilmember harper-madison's later amendment, it would alter the definition of group

[10:09:27 AM]

residential. But my understanding is we haven't taken that up yet. But it would alter the occupancy.

>> Pool: Thank you. It doesn't matter if we haven't yet taken it up. My question was, of course theoretical, when we do take it up, will this have an impact on the one that we are talking about now? Thank you for answering in the affirmative. I think that is of note and it gives me great pause, and I think we really need to be aware of what it is that we're doing here in case we have unintended consequences. I will be -- I can't support harper-madison 6 for those reasons.

>> Mayor Adler: Okay. Before you speak, just want to say in case you want to respond to me as well.

>> Harper-madison: Actually I was just going to ask if it would helpful to take up 9, 8, 6, in that order because there's things being said that are confusing. Group residential and

[10:10:27 AM]

cohousing don't have the same definition. The definition for group residential is not being proposed to change at all. We're talking about the exact same definition that it has today. So I wonder if to take away



some of the confusion here we should go backwards on my amendments and start with the definition and move our way back to the conditional use. Because this item that --

>> Mayor Adler: Does anybody have any objection with taking up 9, 8, 6 here together as a group since they all relate? Hearing none we're going to go ahead and do that. Councilmember harper-madison, the question of co-ops and group homes is a difficult one, and obviously one that's engaged the community now for several years. We've never gotten this right, and we need to. Because it's a housing use -- I've been in the co-ops that seems to be an incredibly healthy and available and access deal.

[10:11:28 AM]

My concern is, is that I don't know that we're going to be able to fashion the right solution in this process with -- quite frankly, without taking up more time than we have available today to get through the entire code. And I'm concerned about that. I'm probably going to vote no on these, but I would very much like to join with you outside of this process to actually take up and create a code for this kind of living arrangement and cooperative. I think that's probably the best way to do it. We'll be able to do it in the best possible way. I see what you're trying to do here and there's a lot with it I agree. I think you're hamstrung by the fact that we have a code that is trying to deal with use and form and we're talking to a degree about ownership and we're trying to make kind of a round peg

[10:12:30 AM]

fit in a square hole. So for me I'm going to vote no, but I would very much -- if this doesn't happen here I would very much like to participate with you immediately after this process.

>> Harper-madison: Oh, it's gonna happen.

>> Mayor Adler: To actually tee up that issue because I think we can do it in a better way than we could fashion.

>> Harper-madison: I can appreciate that. So I've handed out a document that I think will be helpful. It's an example unit square foot on common lot size to sort of address that concern around form. And then for use I'd have to go back to where we started, which was the conditional use. I'd like to point out that currently conditional use in lower intensity residential Zones includes food sales, indoor and outdoor entertainment, adult care, child care, and bed and breakfast, in which case it brought me to the conclusion where I don't see why we shouldn't be able to use conditional use for

[10:13:31 AM]

residential, for group residential, rather, and then the planning commission having the opportunity to selectively stimulate the development of cooperatives I think is a model that can provide deeply affordable housing and ensure that this type of group residential is permitted in a way that's context sensitive. It having to have the conditional use permit I think would address councilmember tovo's concerns around dormitories and fraternities. But then to go back to the -- where you indicated you believed we're to some degree discussing ownership, it's my understanding that we can't regulate ownership models. In which case I'm not certain why that's a part of the conversation. Because it's kind of all over the place, I'm not sure where to start. I think the definitions might be helpful. So there are words getting tossed around and they don't all mean the same thing. Sleeping unit, dwelling unit, common areas, residential dwelling, these

[10:14:31 AM]

are all words that we're hearing. So for clarity, a sleeping unit is a room or space in which people sleep, which can include permanent provisions for living, eating and other sanitation or kitchen facilities but not both. Such rooms and spaces that are also part of dwelling units are not sleeping units. A dwelling unit residential unit/-- residential unit, a permit space containing one or more rooms designed for human habitation with provisions for cooking, sleeping, and sanitation. Lastly, the common area. A portion of a residential development held in common -- excuse me, or single ownership and not reserved for the exclusive use or benefit of an individual tenant or owner and is available for use by all persons who reside in a dwelling unit within the building or on the lot. In draft two cohousing is defined as a residential development or -- of three or more sleeping units in which sleeping units are separate and detached from common areas that include kitchen, laundry and other

[10:15:33 AM]

shared facilities. It it includes cooperative housing. For the purpose of housing, a sleeping unit and a co-housing scenario, a co-housing use equities to a dwelling unit and each unit may be occupied by no more than two unrelated individuals. The proposed definition for co-housing that we're proposing is a residential residential -- including the part where we're seeking to amend. A residential amendment of three or more sleeping audience in which they're detached from common areas that include kitchen, laundry and other facility. This includes co-housing for the purpose of housing density and this is a change. We're proposing we put every two Fuentes a co-housing use equates to a dwelling unit. This is another proposed change, three unrelated adults in compliance with division 23-10-b-9 in the

[10:16:35 AM]

property maintenance code. And lastly, the definition for group residential, I'm certain you guys don't need photo read it, but what we're proposing to change is simply two words. The use after site of occupancy by a group of more than six persons who are unrelated adults is the only change that we're seeking to make in the definition of group residential.

>> Mayor Adler: Items before us are harper-madison 8, 9 acknowledged 9 and 6, 7 has been withdrawn.

>> Pool: I wanted to be also included in the conversation about the number of unrelated adult whose can be permitted in each sleeping unit because I think that -- that's a key point that I want to talk about. My edits on version three

[10:17:39 AM]

show six. Councilmember harper-madison read those back as three so I would like to see where that adjustment was made. That goes some distance in addressing my concern about the number of unrelated individuals in each sleeping unit. I'd like to so where that amendment is because it's not in the document.

>> Harper-madison: I wasn't prepared to take these all together as a suite so my staff will bring down some documents that will be helpful for clarity. They'll be down momentarily.

>> Pool: I do reducing the six to three does help some, but it still -- we're talking adults, but not a family and a child so it's three adults in one sleeping unit. I still have some reservations. And if this is a conversation that happens off the dais, mayor, I would like to be included in that conversation. This is one that the city council, not just us, for

[10:18:39 AM]

quite some time. I'd like to work through and see if we can't find a good place to land.

>> Given what councilmember Ellis said and the majority said, I'm not sure there's a majority on the dais to resolve thisout, and we have limited time so I'm ready to vote. Further discussion on the dais. Councilmember alter.

>> Alter: I just need to clarify if you put these things together then with a conditional use permit sucked a house with four main bedrooms attached to the kitchen and each of those bedrooms you would have three unrelated adults living in them so you would have 12 unrelated adults if we went down to three in the

[10:19:41 AM]

same house if it was permitted. Is that what this would be proposing?

>> I guess it's six? I'm just -- I'm getting -- I'm confused between the co-housing which is already in the base and in the group and if you had the two like what happens in that scenario when we look at a house that has four bedrooms but only one bedroom is detached to the kitchen.

>> In that situation where you have two individuals per sleeping unit, then yes, if you had a bedroom -- I'm sorry, let me start over. In that situation as councilmember harper-madison described sleeping units he equated with the density that's allowed in the zone, so in an r2 zone a co-housing use can have two

[10:20:42 AM]

sleeping units because that allows two dwelling units. And if it is two unrelated individuals per sleeping unit you would only have a maximum of four and it sounds like there are some proposed changes here that would potentially change that if the number of individuals are sleeping unit changes or if the way that sleeping unit are calculated against the density changes. So that could potentially change it sounds like based on proposed amendments.

>> So I'm happy to move on, but at some point I need somebody to walk me through what the co-housing and the group residential means in particular about T single-family zone so I can share it with my constituents. I don't understand what we're doing and if we're not going to make further change I don't need to have that conversation now, but it is very confusing to understand what what we have done three these pieces and I need to understand that. And if other people need to

[10:21:42 AM]

know that, we can have that now, but it's confusing.

>> Further discussion on this suite? Ready to take a vote? Those in favor of 9, 8 and 6 please raise your hand? Harper-madison, Renteria, Casar, the mayor pro tem. Councilmember Ellis. Those opposed please raise your hand? The balance of the dais and six -- did I counseled that number right?

-- Did I count that number right? Those opposed?

>> Ellis: I'm going to clarify. I got it, thank you. I just wanted to clarify. Can I be shown voting no on the cup, but yes on 8 and 9.

>> Mayor Adler: Yes. With that there are seven votes against so that does not pass.

>> I agree with the conversation that just transpired about better

[10:22:44 AM]

understanding these categories and I thought that I had brought forward the same amendment I brought forward last time that was voted against. It was asking the staff to further co-housing group residential and make the distinctions clearer. I still think there's a need for that and I too echo councilmember alter's request that we just go over those definitions. If there is to be a process of making revisions to these after the code finishes, I believe my district has more co-op housing than any other council district, including cooperatives as they're traditionally thought of as well as fraternities and sororities. So there is really no district that is more impacted and more -- where these uses are more present than mine and I think it would be extremely valuable if you included in those conversations the councilmember who represents the area where these are

[10:23:47 AM]

flourishing. I'd like to ask a quick question of the staff. I'll ask it offline. That's all, thanks.

>> Mayor Adler: Let's move on. Casar number 6. Bottom of page 10 of 19.

>> Kitchen: Mayor, we said we were going to take these all up together too. Casar 6 and kitchen 7 and pool 5.

>> Casar: I would urge passage of them and there's a simpler way of looking at the number of stories compared to looking at the apartment trend data. If we're okay with the approach that I've put here on rm 2 for three stories or for whatever process the staff comes up with, be it in these process or an immediate process starting on third reading if we have consensus on that then we can just move forward.

>> Mayor Adler: What we're

[10:24:47 AM]

looking at is the Casar 6, kitchen 7-1 and pool 5-a. Councilmember kitchen.

>> Kitchen: Councilmember Casar, I have -- I like the approach. My question relates for three or fewer story. I'm concerned that a one story arrest a two story existing multi-family, if we zone is rm 2 we may be providing entitlements. My amendment and councilmember pool's amendment talks about reflecting existing use including approximate number of units and approximate height. So I wouldn't --

>> Casar: If the staff interprets interprets mine as being more of a suggestion of how to receive the goal, but not

[10:25:48 AM]

being so restrictive, about the staff feels okay with that I'm fine moving forward as you've suggested.

>> Kitchen: So could we ask the staff how you would read these two together? 7 and 5, councilmember pool's and mine talks about proximateing number of units, height and F.A.R. And in a lot of circumstances probably what councilmember Casar is suggesting would work, but it might not in all. So can you read these two together that way? Just to be clear, are we talking about Casar number #,.

>> Kitch 7-1 and pool 5a.

>> Tovo: Mayor, I'm sorry, I'm not keeping up here. Kitchen 6 --

>> Casar: Pages 10 and 11.

>> Tovo: My pages are all different.

>> Mayor Adler: This is

[10:26:48 AM]

Roman numeral IV, Casar 6 --

>> Casar: The existing multi-family amendments.

>> And then two after that is kitchen 7, which has a subpart 1 and subpart 2, right after that was part 5 which had a subpart a and subpart B.

>> Casar: And I am fine with the pool 5 subpart B of kitchen's and subpart B of pool. We've essentially already passed that amendment within my preservation bonus amendments there nearly entirely identical because they take into account all of these. I think that these are good and go with my amendment.

>> Pool: Mayor?

>> Mayor Adler: Hang on one second. I think the question for staff is could you handle Casar 6, kitchen 7 and pool 5, none of them being prescriptive as to the solution, but doing to our -- do you understand the

[10:27:50 AM]

intent so that you can then figure out what is appropriate in different circumstances?

>> We do. And I think for all of the amendments that are related to mapping as we mentioned the last couple of days, we'll be looking at those from the standpoint of what constitutes a comprehensive revision. And to the extent that we determine that these are not feasible at this time we would suggest they will be folded into a process. Additionally for some amendments there may be ways to achieve

them not through mapping, you so we would try to be creek active as we can and look at -- creative and look at all the possible options.

>> Mayor Adler: With that said and under that umbrella, we have different ways of describing with these three different proposed amendments. Some are more proud, some are more focused on particular solutions, but the intent is not to be prescriptive so you can work

[10:28:51 AM]

to try to atrustee Villarreal the obvious and the intent. And the concern was that you don't read them prescriptively. Was that okay? Councilmember pool?

>> Pool: Thanks, yes. When my staff worked on pool 5 that was my intent. It is essentially kitchen 7. There is more prescriptive language in Casar 6, but I think if we collapse all three together we would have a good amendment and I would ask that we vote all three of them together.

>> Mayor Adler: Any objection to Casar 6, kitchen 7 and pool 5. Any objection? Councilmember alter.

>> Alter: I would like to abstain on these. I think it's a process that will take a really long time and is going to -- there's a lot of unintended

[10:29:51 AM]

consequences here. I think the intention underlying the amendment proposals is one that I agree with. I'm not sure that I agree with all of the logic that follows from it for what it's going to do to our housing capacity. And I don't feel like in the time frame that we have that we are going to be able to fully understand what this means so I'm not going to be able to vote for these. I agree with the sentiment of trying to retain our affordable housing, but essentially down zoning these properties in this manner, I'm just not sure that I fully understand the consequences of it and whether it will get us to the goal that is our -- a goal that I think we all share. I would like to be shown as abstaining.

>> Mayor Adler: Councilmember tovo.

>> Tovo: Mayor, I would say that I brought forward on first reading an amendment that is extremely

[10:30:52 AM]

similar in intent to the ones we're considering here today. And it was amended on the dais and passed I'm delighted to support directing the staff to do it again, but I just want to look, just point out that the response to my amendment, which again was not the language that I brought forward, but was the

amendment that passed, to protect renters right zone citywide, existing missing middle -- the staff's response on that, I didn't catch it during work session, but the response was that the council policy direction, they regarded as controlling with respect to potential down Zones. So I just want to be sure we're not in that -- that we don't end up in that place again where we get that response back where we might potentially lead to down zonings. I think in most of the instances I'm aware of it

[10:31:53 AM]

would be -- it would not be a down zoning. Either they're being used for tri plexes and they currently have single-family zoning so they would be getting an increase over their base entitlements. In most cases I'm aware of they would be not down zoned, they would be up zoned, but they would be potentially not as -- they would not result in as high zoning as may have been proposed through the code mapping. So again, just as a little bit of perfect, we did pass an amendment very like this that I had brought forward last time around.

>> Mayor Adler: I share some of the same concerns that.

>> Alter: Has. I'm beginning on to vote to move this forward. I hope between second and three readings you can come back to us with what you think the proper course is with respect to these so that we can take a look at them in greater detail. All right. On those three, councilmember kitchen.

>> Kitchen: I would just say that I appreciate the comments, but I think there may be some cases where we really need to look at what's on the ground and

[10:32:54 AM]

that's okay. That's the direction we're giving as council. So I understand that the concerns that the staff has and we can certainly talk through that in the way to approach it. But I think this is fundamental to our policy which is to preserve existing affordable housing.

>> Mayor Adler: Let's take a vote on these three.

>> Tovo: Mayor, I don't agree at all. I agree that we should -- I want to make sure we don't get a response back that could lead to potential down zoning. Regardless, I think the direction now has been offered twice so I hope that we can accomplish this.

>> Mayor Adler: Those in favor of Casar 6, kitchen 7, pool 5, please raise your hand? Those opposed? Ellis voting no. Alter shown as abstaining. Those three pass.

[10:33:55 AM]



>> Mayor, I'm going to withdraw Casar 7 for now. I think we can get it done on third reading.

>> Mayor Adler: 7 is withdrawn.

>> Tovo: Mayor, can I ask, especially if the intent is to bring this back on third reading, councilmember Casar, could you explain what the intention is here.

>> Casar: The intention is to have it apply to all properties, not just those with three units and less. It's to expand it.

>> I'm not following. I had brought forward the amendment to make sure that they're partnering on those smaller projects that they're partnering with the city approved entities to manage those. It looked to me like the new language was allowing a waiver from that.

>> If the amendment was withdrawn we should not be debating it.

>> Casar: The councilmember indicated he's bringing it back on third reading. I'd like to understand what it is.

>> [Inaudible].

>> Tovo: Thank you, I'm

[10:34:57 AM]

aware of that.

>> Mayor Adler: You can explain real fast.

>> Casar: It's not about the waiver. Your amendment only got included on three and I wanted it on all of them. This is the expansion.

>> Tovo: Thank you for that clarification.

>> Casar: If the expansion goes in without concern now, then I don't have to bring it back on third.

>> Harper-madison: Mayor pro mayor, could I ask a question please? I'm getting headache from all the feedback. What I'm told is everybody leaving their mics on. My head is pounding already from all the squealing. Thank you.

>> Mayor Adler: And we have a ways to go. That gets us to pool 6. Pulled by harper-madison. Any discussion on 6 before

[10:35:57 AM]

we take a vote. Let's take a vote.

>> Pool: Mayor, I just want to note that I'm bringing this one back for discussion because some of my colleagues were marked at the recent housing and planning committee meeting on the need for multi-bedroom units as we try to attract more families and it's important with our urban public schools and citywide to keep our city sustainable. Legal staff say we have a requirement for a multi-bedroom requirement, but I'm interested in an incentive program that would bring more family friendly units. This is a topic that the Austin city council has worked for many, many years in order to try to find ways to encourage and incentivize more multi-bedroom units and family friendly units. So I'm hoping staff would look those units and multi-opportunity Zones for children and other multi-generational households. So that is what the intent

[10:36:58 AM]

of reviewing the potential multi-bedroom requirement for the residential Zones starting with r4 and to provide a method to target these requirements in areas within a half mile of our urban public schools. I feel very deeply that we need to do everything in our power to make sure that our public schools remain viable and that means ensuring that we're encouraging and in fact seeing families with children living in the vicinity of our public schools.

>> Mayor Adler: Okay. And I'd join on you outside of this process to get more family friendly. I just don't think it fits in the process for it right now. Yes, mayor pro tem.

>> Garza: I've said this before, but we need to be careful about defining what exactly family friendly is because there are a lot of families who live in maybe eight or more who live in two bedroom apartments because that's all they can

[10:37:59 AM]

afford. If a family chooses to live in a one bedroom apartment because they want to go to a good school, they should be able to do that too. We visual different definitions of what family friendly is.

>> Mayor Adler: Let's take a vote.

>> Pool: Mayor, if I could further refine my point. The point here is to increase how many homes or apartments with multiple sleeping units are available around the schools so that more families with children would have more choice. This isn't anything about -- this is just a general recognition that around our public schools is where we want to have a good supply of multi-bedroom homes for families to choose from. It doesn't say anything about anything else. It's just to help people find a good place to live that's near and walkable to

[10:39:00 AM]

an elementary school or a middle school or a high school.

>> Mayor Adler: Ready to take a vote. Yes, mayor pro tem.

>> Garza: And so then I question no votes to more -- more smaller lot sizes and abilities to build more. If we're talking about trying to get families closer to things, and then we vote no to things that -- I mean, this is -- we're all trying to do the same thing here.

>> Mayor Adler: Let's take a vote. Yes.

>> Tovo: Mayor, I would just point out that I think there's a difference between applying some of these principles to green fields and vacant lots and already to developed existing areas because what we're seeing in so many of those areas is the demolition of units and the construction of much more expensive housing. And we have data from aid showing that's how they impact the schools and they also have data showing how

[10:40:01 AM]

many units are coming from different kinds of housing product. And the fact is that efficiencies and one bedrooms north yielding lots of units and they are -- again, our partners, aid, are providing us with this data. So when we're doing a land division it's important that people have options, including multi-bedroom units. Currently from my observations of what is being produced, a lot of what is being produced on the market in terms of multi-family are not multi-bedroom units.

>> Kitchen: Mayor, I have a question.

[10:41:05 AM]

So I'm reading this amendment as just a request to staff to consider approaches to multi-bedroom requirements. I think it meets our shared goal. We're all trying to have family friendly housing, so I don't see why we wouldn't ask staff to consider this type of thing. It doesn't describe the result and it also doesn't describe -- because it doesn't prescribe results, I think there's an ability to accommodate all of our different thinking in terms of approaching. So -- but we have a shared goal and I'm not sure why we wouldn't move forward with asking staff to do this.

>> Mayor Adler: Let's take a vote. We're voting now on pool 6. Those in favor of pool 6 please raise your hand?

[10:42:06 AM]

Renteria, kitchen, alter, pool, tovo. Those opposed please raise your hand? The balance of the dais. It does not pass.

>> Kitchen: Mayor, I understand and I'm not going to revisit it, but I don't understand the opposition to this. I want to lay that out to my colleagues. We've all said we care about families. Why wouldn't we ask staff to give us their best thinking.

>> Mayor Adler: I would support this but outside of the process. I just think there's enough time left to do it justice and do it well.

>> Kitchen: Perhaps an amendment to this would be in order to --

>> Mayor Adler: If you want to bring it as an ifc afterward.

>> Azhar: Future deal I'm happy to do that, but I don't want to try to craft it here. >>

>> Kitchen: I appreciate it. We'll bring it back over the break and if councilmember pool wants, I can bring something back after the break today.

>> Pool: I'd be happy to.

[10:43:09 AM]

I think that would be a good step forward. Let's move forward. We're now to --

>> Tovo: Mayor, I had a comment. So the council has initiated several task forces to look at ways to retain and to encourage families with children to remain in the urban core. Both of those task forces set forward recommendations. This was a long-term goal. It was a priority that previous councils adopted to make Austin the most family friendly area in the nation. It's -- I think it's particularly appropriate in a comprehensive land use revision that we consider how our code may be incentivizing or could be pushed to incentivize the creation of housing that tends to attract more families with children.

[10:44:11 AM]

So I do think this is the appropriate process and that is the reason I support the amendment that councilmember pool brought forward to explore that issue further.

>> Mayor Adler: We can get through all this by a reasonable time today, then it's something I would consider. Let's go ahead then to Ellis 2.

>> Ellis: I'm happy to lay it out, but I think I may defer to I think councilmember alter had pulled it. I didn't know if you had questions.

>> Alter: Go ahead and lay it out, thank you.

>> Ellis: So this was an amendment about the relationship between short-term rentals and affordable housing. It was approved at first reading. I think with councilmember Casar's amended language to talk about the the calibration of not having short-term rentals in missing middle Zones outweigh the number of affordable units. So I wanted to bring it back because it wasn't implemented into the next revision from staff. I wanted to make sure it was clear of what our intent was

[10:45:11 AM]

to give them a little more information if it was helpful. But it ensures we're doing everything that we can to maximize the supply of affordable units by providing options to support owners who wish to participate in the affordable housing bonus program with possible options to make the math pencil out. You know, we've all said multiple times that we are in favor of those affordable units so I wanted to make sure we were giving owners of these missing middle units the ability to essentially figure out ways to pay for it. The higher income of short-term rental units encourages the viability of those affordable spaces for people.

>> Mayor Adler: We ready to take a vote? Councilmember pool.

>> Pool: So do you see a difference -- because this is focused on short-term rentals. And the other conversations we've been having about

[10:46:12 AM]

affordable comments and Adu can be used as a short-term rental, but they're also more likely to have a longer tenured resident, short-term rentals by our definitions are for successive groups to come and stay in them. Is there another mic on that's making this squeal? So I'm concerned that the -- we talked about it when this came up in may for the guidance document and I think also during first reading. If we open up missing middle for str's, then those units will be rented out on a short-term rental basis. There's a greater flow of revenue coming off of those, than there would be if were rented to a family or someone who is a resident and works in Austin.

[10:47:14 AM]

What we're doing with allowing short-term rentals and expanding the ability of them into the type 3 str's in the r4 and rm1 Zones is taking away the possibility of a resident in Austin, somebody living here and working here, finding an affordable unit because that unit will not be on the market for a renter, it will be on the market for a short-term visitor, tourist, whatever, we all understand the difference between

strs and rental as in apartments. So I have concerns over that. We will end up losing, in fact, a lot of missing middle housing potential to out of state speculators who will come in and build the missing middle and then put it all occupy the market for short-term rental. That's in fact a lot of what happens with a lot of the

[10:48:16 AM]

hi-rises downtown and certainly over in Rainey. You have a lot of people from out of town who own those units and then they rent them out. So we're not actually effectively adding to our affordable housing stock. We are in fact narrowing down the options for people who have -- who are living here, by the definition of living here and they are living in an affordable unit because it will produce more revenue for the owner to put it on the market as a short-term rental than it would be for an apartment or an Adu for a longer term lease. So I have to vote no on this unless there is a way to adjust this, although I don't know what it would be, but I am seriously concerned about us reducing the number of units available for renters.

>> Mayor Adler: Okay. Further discussion? Councilmember tovo.

>> Tovo: I need to clarify a few things. On first reading there was

[10:49:17 AM]

an amendment discussed on page 29 to revise the sections to prohibit type 3 str. So the proposal that came forward from staff on first reading prohibited str 3s in r4 and rm1. And the staff response described on page 29 talks about the second reading draft says str's may not be used for a housing density bonus program and they may be prohibit understand r4 and rm1. So this amendment would allow them into these categories. And on page 53, I need to clarify two things here. I can brought forward an amendment about the prohibition of str's and then it got added on to to allow them in the affordable housing units. I want to make it clear and

[10:50:18 AM]

I would really appreciate if the document made it clear that my amendment was not to allow them in affordable units. So that's just an aside. So on page 53 the staff report sends us back to where -- so my amendment had talked about non-owner str's, prohibiting them in the missing middle Zones and then it got added on to except for the lots where the affordable housing program is used and then again it directs us back to 29. So I guess the up shot is we did have the conversation on second reading. The motion that passed asked staff to consider allowing them in the affordable units. Is this something that

staff recommends? I was reading between the lines on 29 and 53 and assumed that you had considered that and decided

[10:51:19 AM]

not to.

>> Councilmember, you're correct that the change was made to the draft to prohibit type 3 strs in the missing middle Zones. And after discussing it we discussed it a lot with internally and feel that because they were not going to be allowed in those Zones they also should not be allowed when there's a bonus program being taken. I think it was clarified before that they're not allowed in the income restricted units, but also we felt a little important to be consistent, but they're not allowed in the missing middle Zones and they should not be allowed in any situation whether it's bonus units or not bonus units.

>> Tovo: So it sounds to me like staff do not support this amendment.

>> I think it's whichever way the council chooses to go we recommend that it be consistent so that they're either allowed all the time in those Zones or not

[10:52:22 AM]

allowed regardless of the unit type.

>> Staff does not recommend this amendment. As Greg said, we recommend that there be a consistent approach to either allowing them, r4 and rm1 or not. If the amendment passes, we would work internally to try to find a way to make it work, but that is our recommendation.

>> Tovo: Councilmember Ellis, your language talks about where the property is participating in the affordable housing bonus program and it's my understanding and I guess I'll ask staff to clarify, that with rm1, if you do 10 units there is an opportunity if you're not within the equity overlay, there's an opportunity for that developer to come and ask for a waiver of the non-site requirement, that they can pay a fee-in-lieu, is that correct? >>

>> Ellis: As written, that's correct.

[10:53:24 AM]

>> Tovo: It is a big concern to me that we would be changing the zoning requirements so drastically in these areas to allow with the intent of increasing housing and then that any of these would be allocated towards short-term rentals, I just can't support.

>> Mayor Adler: Mayor pro tem.

>> Garza: I like the idea of -- I guess I'm just not convinced that it actually creates that from happening. Because really -- I've heard anecdotally that running an str takes a lot and people pretty much get tired of it doing and turn it into a long-term rental anyway. And so I guess I assume in these cases the rental, long-term rentals subsidize -- are enough to subsidize the affordable, but I disagree with str's only being for outsiders because I have many stories of families who are staying

[10:54:24 AM]

in place, but have to remodel so they move somewhere else and they have to find or family members coming, grandparents coming over the summer to take care of the grandkids when there's no after school care and they stay in str's. I don't agree that it's always people just coming to party in Austin or something, but I'm not going to support it because I'm not convinced that it creates the subsidy that a long-term couldn't create.

>> Mayor Adler: Councilmember Ellis.

>> Ellis: I would just like to clarify. It does have language that says only for the duration of participation in the affordable housing bonus program, which to me does not include fee-in-lieu. And it does specify that they shall be distinct. So the affordable unit can't be the str. But a little clarification that staff may be able to help with, if someone has registered a type 3 short-term rental, does that mean that it is only allowed

[10:55:25 AM]

to be used a short-term rental or could they be short-term rental for south by southwest and then rented the other even months of the year.

>> The latter.

>> Ellis: Thank you.

>> Mayor Adler: Councilmember Kitchen.

>> Kitchen: Just a clarification about the definition of the type three. Could you provide that.

>> A type three short-term rental is a non-owner occupied str in a multi-family development.

>> Kitchen: So my concern is that this is not a circumstance -- type 2s are a whole different situation than type 3's. And type 3's is not the situation where you've got a family that's got a second unit, that they want to rent out to support their home.



[10:56:27 AM]

Type 3's is the more commercial approach and as I think my colleagues have said. So I can't support this because I don't think it supports getting affordability, and I think it -- it risks turning more units into strs as opposed to longer term rentals.

>> Renteria: Mayor?

>> Mayor Adler: I'll come right back to you. For me on this I'm going to support this amendment with the understanding that it applies where you have the unit in place as opposed to fee-in-lieu. Because I think asd from Lewis said yesterday when he was at the microphone, the market's not going to build affordable housing on its own. I think he's correct about that. The conclusion that he reached, though, was that the only way it happens is if it's subsidized. And I don't agree with that T I think that our whole code effort here is designed

[10:57:27 AM]

to try to find opportunities for -- to incent the market because we're limited by state to produce these. I like this amendment because I think it provides a way to cross-support, cross-collateralize or cross-support an incentive for people to provide the affordable unit and participate in the program and might make it economically feasible where it might not otherwise be. So for me I'm going to support this of what I think it does with affordability. Councilmember Renteria.

>> Renteria: Thank you, mayor. I'm not going to support this. You know, it's almost like the definition of a type 2 because once you get into r4 and -- r4 and rm1 I just don't see the person that are going to be the owner for all these apartments and she will be living in all

[10:58:27 AM]

these 11 homes and then renting it out or selling it out and having one. That's more to me as a type 2. And I just don't feel comfortable voting for any kind of short-term rental, emceeing what's happening in my neighborhood. So I won't be able to support this.

>> Mayor Adler: Okay. Ready to take a vote on Ellis 2? Those in favor please raise your hand? Harper-madison, me, Casar, Ellis. Those opposed? The balance of the dais. It does not pass. That gets us to tovo 1. Gets us to tovo 1.

>> Tovo: So this next amendment would apply the general requirement, would apply the tenant protections to other affordable housing programs, and I think that's in line with a lot of the conversations we've had throught the last couple years about making sure that when we have an opportunity to provide additional protections for

[10:59:28 AM]

individuals who are living within rental properties, that we take that opportunity.

>> Mayor Adler: Any discussion on this?

>> Tovo: I think it was pulled. I guess it was pulled by mayor pro tem.

>> Mayor Adler: It was. Staff, you want to explain why it is that you didn't do this?

>> So, the reference in this amendment is to affordability unlocked and most of the time when affordability unlocked is used, it will be when people are getting some sort of subsidy from the city of Austin or some other agency where there will be more ability for that agency to be involved in that. In these density bonus programs, it will be much harder for market

[11:00:30 AM]

rate developers to provide tenant protections and still be willing to participate in the program. So I think it's a balance.

>> Mayor Adler: So the concern was an unintended impact that we'd actually end up with fewer affordable units.

>> Potentially.

>> Mayor Adler: Okay. Thank you. Further discussions?

>> Tovo: Yeah. For me. Just to be clear, this was recommended by housing works and, you know, again, I think that -- I think we have an opportunity here to provide some protections for individuals, and fact of the matter is that in all of the -- in just about all of the cases, unless they're getting equivalent zoning, many of these cases are upzonings from much lower density levels who will now be able to access more units on a piece of property through -- by participating with a fee. And so I think it's appropriate that we apply some additional -- that we use this opportunity. They're getting a large increase

[11:01:31 AM]

in the value of their property through a rezoning. I think it's important that we return some of that benefit to the community, and especially to the individuals who would come to rent those properties.

>> Mayor Adler: Thank you. Those in favor of tovo 1, please raise your hand. Kitchen, tovo, pool, and tovo -- kitchen, alter, pool, and tovo. Those opposed? It's the harper-madison, Renteria, Flannigan, me, and Ellis, mayor pro tem abstains. It does not pass.

>> Kitchen: Mayor?

>> Mayor Adler: Yes.

>> Kitchen: I think this is --

>> Alter: Casar is off the dais.

>> Mayor Adler: Casar is off the days.

>> Mayor Adler: If you can get to six, you can try to bring it back.

>> Kitchen: I need to understand

[11:02:31 AM]

a little better the opposition. We're talking about tenant protection.

>> Tovo: I guess since councilmember Casar has been involved with various resolutions, I would ask that we wait until we have a full dais. I also need to step off the dais for a couple minutes. I don't know if there's an opportunity to go on, but I'll reintroduce my amendments when I come back.

>> Mayor Adler: Our rules allow us to bring things back so you can do that, on any one of these, you can bring back --

>> Garza: No, I just wanted to explain. This is the -- like the theme theme of the difficulty of many of these votes, is that we -- every single one of us wants tenant protections, but when we hear that applying them in a -- applying something in a certain way would, in effect, create less affordable units, that's the challenge that I think is almost every single vote we're taking

[11:03:32 AM]

here is that we all want tenant protections and families to stay here and all of that stuff. It's just disagreements on how we get there. And so I abstained because I absolutely want tenant protections in every single development and everywhere, but if it, in fact, turns into less affordable units, that's concerning.

>> Mayor Adler: Okay. And that's exactly the rationale for me. You know, every one of these is a balance, and I think in affordability unlocked and putting those protections with what were pretty significant incentives for someone to take advantage of that program, I think that it works, and I would

be concerned about losing affordability in this instance. We don't have councilmember tovo here so we can't retake the vote so let's bring this one back up later.

>> Pool: Mayor, I had a question, or just a comment. The thing about it is, if we

[11:04:33 AM]

don't -- if we don't tell the developers or builders that we want the tenant protections in place, which is what this does, applied to all programs, amend the general requirements to require an applicant to provide tenant protections like those found in section 23, et cetera, if we don't -- if we don't tell them up front that this is what we expect, then they won't plan to do it. And if we signal that we don't want these to apply and we say it's because we anticipate that providing these protections would impact affordability, I mean, I don't -- what is that message that's being sent? The message being sent is that the developer, the applicants can say, well, you know what, it'll increase the cost of that rental if you tell me that I need to have some tenant protections. I think our role as a governmental entity is to instill these kinds of values and ethics into the process, saying we expect tenant protections.

[11:05:35 AM]

We expect to have well-maintained properties. We object to nuisance properties. And this is our way of giving people who may not otherwise have the ability to advocate for themselves, the city is standing behind them and saying we support you to have a good, clean place to live, that the water runs, that it's potable, that the electricity isn't intermittent and that you have all the standards, you can expect all the standards the rest of us do.

>> Mayor Adler: We have a full dais now do we want to take a vote?

>> Pool: I'm a little bit concerned that if we vote this down, we're saying all you have to do is it's impacting our bottom line and we don't need to do it, and I think that's entirely counter to what we've been trying to do for the last five years.

>> Mayor Adler: Councilmember Renteria.

>> Renteria: Yes, mayor. You know, we voted on this and it lost. Are we going to continue discussing this issue once -- they should know -- the losing

[11:06:35 AM]

side should know that they lost and we should continue with our other amendment that -- work that we need to get done. And, you know, this is just delaying this whole process. And I just do not agree with that.

>> Mayor Adler: Okay. I'm going to call a revote on here, on tovo 1, now that the dais is full. Those in favor of tovo --

>> Kitchen: I have a question.

>> Mayor Adler: Okay.

>> Kitchen: I appreciate councilmember Renteria's point and I'll do this very quickly. And I would just like to add that no one is trying to delay things here. We're just trying to understand. So please repeat for me, because I'm really trying to understand why we're concerned that extending these tenant protections -- why the staff is concerned about extending these tenant protections.

>> Mayor, we have a motion to reconsider. Is the debate not limited to the

[11:07:36 AM]

motion to reconsider?

>> Mayor Adler: I'm going to let the staff respond to this, but then I'm going to call the vote.

>> So we have heard concern even from affordable housing developers that the tenant protections as written can provide challenges when tenants may become violent or in other circumstances. And if -- and so this just raises the challenge of being able to provide rental units in all developments throughout the city. So we absolutely support tenant protections. It's -- it will just be a greater challenge to participation in the program.

>> Mayor Adler: Okay. Let's take the vote. Those in favor of tovo --

>> Kitchen: I have one follow-up question.

>> Mayor Adler: Okay 3.

>> Mayor Adler: --

>> Kitchen: From a staff perspective, do you see a route to have further conversations

[11:08:37 AM]

about extending tenant protections while addressing some of those concerns that have been raised? Can we have that conversation between now and third reading?

>> I don't know that there will be time for that. There have been conversations even with the affordable housing providers about the current tenant protections. I imagine those conversations will continue over time.

>> Kitchen: Okay.

>> But I don't know that there would be time between second reading and third reading, because we'd really need to engage a much broader audience.

>> Kitchen: Okay. All right. I'm going to continue to support this because I think on balance, we need to protect tenants. And if we back off of protections because of concerns about whether builders will actually take advantage of -- I mean, to me that's like telling people we can't raise your wages because it's going to -- it's going to cost the business more.

[11:09:39 AM]

>> Mayor Adler: I only wish we had calibrated things better on Rainey street so we had more families planted there now in affordable units. We missed that calibration. We missed that opportunity. It's unfortunate. We can't go back and fix that. But we can try to calibrate as best we can going forward. Councilmember Casar.

>> Casar: I would -- I would support these sorts of tenant rules as a citywide law, but the issue is, right now when we are trying to give dollars to affordable housing nonprofits, some of these tenant protections are not even fitting in that case. So having it be part of this program, I think it's less tenant protections because those tenants won't be protected by it because they do take advantage of the thing because right now people are worried about taking advantage of that thing if we give them dollars. These tenant protections I think are really important. I want the legislature to change their law so we can make it a

[11:10:40 AM]

blanket law so people don't have a choice. The issues brought up by councilmember pool about dilapidated conditions are the law in the city for every single tenant. I'm going to keep working in stakeholder groups to try to get these to work but if we currently aren't getting them fully to work and buy in from our affordable housing developers when they're getting money, then I think this is -- I think we have to keep working on this. That's why I'll vote no and keep working on the issue.

>> Mayor Adler: Those in favor of tovo 1, please raise your hand. Kitchen, alter, pool, and tovo. Those opposed, please raise your hand. It's the balance of the dais. Tovo 1 does not pass. Gets us to tovo 14.

>> Tovo: Mayor, I'm replacing that one with an amendment I'm going to bring forward later.

>> Mayor Adler: Okay. So we'll table this one for now. That gets us to tovo 15.

[11:11:47 AM]

Staff? Can you explain what this is? Is this -- what's your position on this?

>> So, the proposal would be to require on-site units in properties where the proposed base zoning is CC, and right now the fee-in-lieu -- the in-lieu fees from the downtown density programs go to support housing for the homeless. And the number of affordable units that we would get in downtown would be a small number. So it's really a choice between providing funding for people experiencing homelessness or providing a small number of on-site units.

>> Mayor Adler: Okay.

[11:12:47 AM]

>> Casar: That's of my concerned. That's why I pulled it and that's why I'm voting no.

>> Tovo: Yeah, these were capturing the additional properties, the ones that were additional non-cc, non-commercial center, they were not currently eligible for the non-density program.

>> There may be some confusion there. Was this in response to the Casar amendment?

>> Tovo: Yes. Yeah. It was on page -- well, my page numbers are different. But it is in reference to Casar's CC 5.

>> Mayor Adler: Okay. I'm going to vote no for this because I don't think that putting the units on site downtown is the highest priority. I think people able to live in all parts of our city are real important. But I don't know that people need to be -- it's a very expensive affordable housing unit, and I think we could get more affordable housing units for more families in the downtown area, so

[11:13:48 AM]

I like the program that we have now that lets us do that and I like the tie to the other programs that they support. All in favor of tovo 15, please raise your hand. It is kitchen, pool, and tovo. Those opposed, please raise your hand. It's the balance of the dais with Ellis off and alter off. That does not pass. Harper-madison 7 was withdrawn. Harper-madison 8 and 9, we've already taken votes on.

>> Mayor?

>> Mayor Adler: Yes.

>> Pool: Now that we're moving to non-zoning, I wanted for a moment to ask our urban forestry staff a question about trees. There's Mr. Morris. Can he come down?

>> Mayor Adler: Is this related to an amendment?

>> Pool: It does. Yeah.

>> Mayor Adler: Which one?

>> Pool: Was my first reading, pool number 1, tree canopy policy enhancements.

>> Mayor Adler: I'm sorry, where

[11:14:49 AM]

is that?

>> Pool: We're talking about non-zoning.

>> Mayor Adler: Right, and the next I have is --

>> Pool: Staff have been working with my staff on some questions that they had on non-zoning regulations. This was the only available appropriate time for me to bring it up to allow Mr. Morris to come and get some clarification on a piece that we had taken care of previously on the no-net loss 5:by 5:canopy --

>> Mayor Adler: We have a list of amendments that people have filed. We're going to go through the amendments in that order but that does not mean that at the end of this --

>> Pool: This is really, really quick. There was a piece that was --

>> Mayor Adler: If it's really, really, really quick.

>> Pool: Well, it was inadvertently omitted from the second reading document, we're trying to clarify that so it can be reinsetter. There was an error made. It's just some clarity and information from our urban forest electricity division, about the tree canopy policy, the 50 by 50

[11:15:53 AM]

canopy policy that we adopted didn't appear in the second reading draft. I understand it was an oversight and it will be included in our third reading --

>> Mayor Adler: I'm sorry, I have to stop this we have a list of amendments, we're going to go through the amendments but at the end of this process we'll make sure you have the opportunity to call up the staff.



>> Pool: So has the question, if Mr. --

>> Mayor Adler: I really can't do that, councilmember pool, because people posted amendments on Friday, we've agreed we were going to go through the list of amendments, you're trying to change the order now of how we'd proceed --

>> Kitchen: I have a suggestion --

>> Mayor Adler: The question is how much time are we going to spend on this when we've adopted a process. We're going to call harper-madison 10. If the council wants to vote to change the order in which we're doing that, they can certainly do that. But while we're here, I'm going to call harper-madison 10.

>> Kitchen: Mayor, I have a suggestion. We do have an amendment upcoming that relates to trees. I think that that would be an

[11:16:53 AM]

appropriate time to ask the staff these kinds of questions.

>> Mayor Adler: If it relates and can relate to an amendment, that might be a very good way to handle that.

>> Kitchen: I think it would relate because it relates to tree --

>> Mayor Adler: Thank you for that suggestion. Harper-madison 10, does anybody want to comment on this? Councilmember Ellis.

>> Ellis: I do. And I'm actually going to pass out an amendment, I believe it's posted on the message board as well. I apologize for handing it out now. I've been holding onto it for a couple days now. It basically just says shall consider and specify partial or full exclusions for impervious cover calculations, and that is mostly my support for looking more into the pervious technologies. I believe we should be a little more scientific, not that that's on you, that's on us as policymakers, about impervious cover and open space and having it not be a complete zero to a hundred, it's either impervious or it's not, I think as

[11:17:55 AM]

technology advances and we have newer and better materials to help slow down what environmental damage can be caused by

-- imperviouscover, I would like staff to look for deeply into that. I think it's a conversation we should have as staff members and council members, it's a cool space we're at and I wanted to open up that conversation. So I just wanted to amend it slightly. I hope that's seen as a friendly amendment, but that's what I'd propose.

>> It's mostly seen as a friendly amendment, however some conversations that we've had that really dial into a very specific issue that call for the delineation with this partial impervious exemption, for example, driveways, the part that your car covers is considered impervious, but the part that your car doesn't cover -- so just wanting to leave some room for those funny little exceptions, the construction of the driveway, if the stones go this way or that way, if it's this kind of

[11:18:56 AM]

material or that one, both are pervious, one is not, that was the intention for the partial consideration part. And you're welcome to sort of speak to the nuance about that part and your understanding of why we put it in.

>> We were concerned about a total exemption for all of the listed materials, but we are happy to look at it in more detail and think about which portion of a driveway could be exempted, maybe different approach for partial credit for some of the newer pervious materials so we're happy to look into it as amended.

>> Mayor Adler: Does anybody have an objection to the amendment being added? Hearing none, the amendment is added. We're now to harper-madison 10 as amended. Any more comments on this before we vote? Let's take a vote.

>> Pool: Arriving at a question. I'd like to ask Mr. Harrington to come up and speak to the unpaved

[11:19:57 AM]

portions of driveways, banks that's already been credited. I'd like Mr. Harrington to come up and discuss that.

>> I'm sorry, ma'am, could you repeat the question?

>> Pool: Sure, this is the one about -- it's the third bullet on harper-madison 10, impervious cover exemptions, unpaved portions of driveways and this is where the calculations would be -- would include unpaved portions of driveways, including the unpaved portions of urban driveways. My understanding is that is already a portion of the calculation.

>> As indicated, it's considered pervious under the proposed code and new code.

>> Pool: Is there a reason why we are then repeating that? In the past when we have looked at repetitive sections, we've either deleted them or acknowledged that we are already doing them. Mayor?

[11:20:57 AM]

We're already doing this.

>> Mayor Adler: Okay. If different people thought we

[11:22:20 AM]

>> I'm understanding this gives us the opportunity to benefit from our staff's understanding and discretion, so it's asking our staff to consider these things but it's also recognizing that it's if and as appropriate. Is that the intent, councilmember Ellis?

>> Kitchen: Yes. I can support it with the understanding that we're not directing staff to do this, we're asking staff to take a look at it.

>> Mayor Adler: Okay. Those in favor of harper-madison 10 as amended, please raise your hand. Those opposed? It's unanimous on the dais -- I'm sorry.

>> Alter: I'm abstaining.

>> Mayor Adler: Alter abstains and tovo votes no -- tovo abstains and alter abstains. The others voting aye, it passes. Okay. That gets us to kitchen 6. Councilmember Casar?

>> Casar: Mayor, I would support this with the wording of to the extent feasible at the beginning of the amendment.

[11:23:22 AM]

>> Mayor Adler: You're adding the words "To the extent feasible."

>> Casar: If that's --

>> Mayor Adler: Anyone have objection?

>> Kitchen: I justify a question. Help me understand the thinking in adding that.

>> Casar: Yes. So in just conversations with some folks, some experts and then also with the staff, I think it's important to provide the staff the flexibility to make sure that it works in all cases. In some cases, draining in front of the parking lot makes sense, in other cases, it might make it worse, I want the staff to have flexibility to look at these ideas and implement to the extent that it's feasible.

>> Kitchen: So if I'm understanding correctly, you're not saying don't do these three bullets, you're saying consider as you do these three bullets, situations in which they may not be feasible.

>> Casar: The staff might want to talk about it later.

>> Matt Holland, watershed protection. That's correct 2.

>> Kitchen: Okay.

>> Our landscaping staff has

[11:24:23 AM]

advised us in looking at this obviously we're very enthusiastic and interested in having folks direct water to these types of locations. A few of these get a little bit tricky.

>> Kitchen: Okay.

>> When they're uphill or there's various issues, maybe the water doesn't drain correctly back to a water quality pond or detention pond in some circumstances. So having some discretion there would be very helpful. So, you know, we're already making really big progress with the tree islands and we like the landscape without trees as well. The other two are just a little bit more nuanced, so that language would help a lot.

>> Kitchen: Okay. I'm okay with it.

>> Mayor Adler: On great. Great. Those in favor of kitchen 6 as amended, please raise your hand. Those opposed? That one passes. That gets us then to Flannigan 6.

>> Flannigan: I'm withdrawing Flannigan 6.

>> Mayor Adler: Flannigan 7?

[11:25:23 AM]

>> Flannigan: Withdrawn 71s Flannigan 8?

>> Flannigan: Also Braun.

>> Mayor Adler: Withdrawn. Gets us to Flannigan 9. Any comment on this before -- yes. Councilmember tovo?

>> Tovo: Just a question for staff. Is this currently done? And I'm supportive of it but it was my understanding this is currently being done. I'm trying to understand what the impact of the change would be.

>> Scott Grantham, parks & recreation department. Yes, ma'am, we have the capacity to do this now. We accept important connections on ped and bike as part of parkland dedication.

>> Tovo: Okay. Thank you. So I'm going to support it but it's my understanding this is currently in the code, in our current code, as well as our proposed. Okay. Thank you.

>> Mayor Adler: Okay. Those in favor of Flannigan 9, please raise your hand. Those opposed?  
Unanimous on the dais. That gets us to Flannigan 10.

[11:26:27 AM]

>> Flannigan: Mayor?

>> Mayor Adler: Yes.

>> Flannigan: On Flannigan 10, this is the shaming we passed at first reading but I don't believe staff -- I think there's a debate with staff on this so I want to further confirm that we want to -- that we not -- are trying not to make any changes to the premise signs in this process and Flannigan 11, which initiates a separate public process, I think we may have already done that, it's more of a programmatic item anyway so hopefully we can just move on this one quickly.

>> Mayor Adler: Okay. Any other discussion on Flannigan 10?

>> Pool: He withdrew that one.

>> Flannigan: It's not withdrawn.

>> Mayor Adler: He was explaining the basis for it.

>> Flannigan: No, no, 10 and 11 were not withdrawn, I was just clarifying that this is basically the same thing we did at first reading but I think we have to keep going.

>> Mayor Adler: He is not withdrawing Flannigan 10, he was explaining why it was he was proposing Flannigan 10. He was saying this process and now is not the time to make these kinds of decisions.

[11:27:28 AM]

>> Kitchen: Mayor?

>> Mayor Adler: Yes, councilmember kitchen.

>> Kitchen: I'm going to support 10 and 11, I know we're just talking about 10 but I'll going to support them both. This just furthest the -- you know, we've had multiple conversations about the need to make changes to our signage ordinance, and have come to the conclusion that it needs to be carried out as a separate public process, and this is just reiterating what we talked about on first reading to do that.

>> Mayor Adler: Okay. Yes, councilmember tovo?

>> Tovo: Mayor, I guess I need to ask staff what their recommendation is here. So this would -- this direction would be directing staff to revise it so that we're not making any changes. Is that -- is that accurate? So as I read this, it would -- it would direct staff to revise what they've already presented.

[11:28:31 AM]

Is that correct?

>> I apologize, I was looking at the wrong amendment.

>> Tovo: Number 10. I was asking a question about number 10.

>> This is the one related to signage. And so this amendment, it is our -- based on council's action on first reading, the intent of that action was to return sort of the current code provisions with respect to off premise signage to draft 3, or to the draft code that's posted before you, which carried forward some enhancements that had been included in draft 3. So we did that. We present through the current code and found the key discrepancies between today's code and the proposed -- the proposed Idc revision, and we did our best to make sure that the fundamental rules for off-premise

[11:29:32 AM]

signs are consistent with how they are in today's code. I think the key, the biggest aspect of that was returning to the code the relocation provisions that allow off-premise signs to be relocated. There were a few instances, and I think councilmember Flannigan's amendment on first reading acknowledged it, there's a few instances where, due to the different administrative provisions of how the code is structured, we couldn't do exactly the same exact provisions, but in terms of the substance, the basic rules by which off-premise -- off-premise signs are allowed and permitted and allowed to be relocated, we took the current code provisions, incorporated those into the draft Idc provisions. So the bottom line is that in our view, we have done this amendment, but if it passes, we would certainly go through very carefully and check our work and make sure that we've done as much

[11:30:33 AM]

as we can to conform the off-premise sign rules in the draft code before you to what exists in current code.

>> Tovo: Thank you. Thanks so much for that explanation. I appreciate it.

>> Mayor Adler: Okay. Further discussion on Flannigan 10? Those in favor of Flannigan 10, please raise your hand. Those opposed? Unanimous on the dais. It passes. Flannigan 11. Take a vote. Those in favor of Flannigan 11, please raise your hand. Those opposed? Unanimous on the dais. That gets us to Ellis 3. Any discussion? Councilmember pool.

>> Pool: I think this is an opportunity, maybe want to take up the amendment but this is also an tons for Mr. Morris to answer the question about the tree canopy and the area that was in the text.

[11:31:34 AM]

>> Mayor Adler: Yes.

>> Pool: I also want you to know my staff did check with your staff to let them know I was going to bring it up at the beginning of the zoning --

>> Mayor Adler: I apologize for any confusion. I was aware of that.

>> Pool: I thought you probably weren't.

>> So are we -- is the tree item up now? Is this an appropriate time?

>> Mayor Adler: Yes.

>> Okay. So just to respond to this, the city arborous, Keith Mars is definitely here to speak but we want to address it first. The leadership team is fully supportive of all the tree amendments that were brought, but some of the language was determined kind of late in the process to not be fully ready. We think that the canopy policy needs to be flushed out a little bit, and probably is best to be included in a provision other than the purpose statement. Additionally, the proposed amendments which again we support and we support the arborist leadership in helping to craft the proposal, but the

[11:32:35 AM]

requirements would impose a new planting requirement on developments, specifically with respect to projects that are not currently covered by landscaping ordinance, and we believe that that needs to be flushed out a little bit. I think a lot of it will be dealt with in the criteria manuals, but our practice in crafting the code has been to provide a little bit more specific direction with respect to the criteria manuals, and that's kind of an overarching theme for council's direction. So we anticipate by third reading having all those amendments fully ready. But there's pieces of it that need to be flushed out a little bit more. So that's -- I think that's our status update.

>> Pool: Mr. Mars.

>> Good afternoon, council, Keith Mars, division manager nor development services. I con occur, we have discussed this and have surety that this will be in the third reading,

[11:33:36 AM]

regarding the two policies, if I may, I'll be brief, I do feel confident based on the data that we have that a no-net loss canopy policy for land development is possible. We have held it more or less 35% canopy cover for the past 30 years in the city, largely because of our tree protection and planting measures. The other policy of achieving 50% by 5050 -- or by 2050, I should say, is a -- would require further efforts, but I do believe that it further aligns with the climate policy, in particular the tree planting and carbon offset strategy. I'm happy to explore that further and that's something that perhaps the land development code can achieve, other initiatives and conjunctions with our citywide initiatives certainly go in that direction.

>> Pool: I appreciate your work on this, Mr. Mars. I think the 50 by 50 concept is a

[11:34:37 AM]

great one, and it does, in fact, forward our carbon neutral and climate change ordinances and our resolutions and the general values of the city, so thanks for that, and my staff and I stand ready and look forward to continuing to work with you toward third reading and smoothing out any of the wrinkles.

>> Thank you.

>> Pool: Thanks so much.

>> Mayor Adler: Okay. I think that in front of us is Ellis 3. Right? Any further discussion? Councilmember alter.

>> Alter: I wanted to ask the arborist if he could speak to this amendment and provide your opinion.

>> If I may, at first I would like to consult with Mr. Lloyd on some of the issues that we have talked about in terms of -- if I recall, is this on the tree amendment --

>> Pool: The amendment is called

[11:35:38 AM]

supplemental heritage tree program.

>> Brent Lloyd, Idc team. These are tricky issues. You know, crafting provisions that will, you know, give - enhanced zoning entitlements based on the city's tree requirements. In a previous -- in our response to first reading, we had proposed a special exception that would go to the board of adjustment that would broadly allow the board to consider sort of the impact of non-zoning requirements on housing capacity, and that remains, I think, part of our recommendation. If this amendment does pass, we would revisit all the issues and do our very best to come forward with a proposal that goes some distance towards achieving councilmember Ellis's goals, which I believe, based on the text of this amendment, are really



to allow for the impacts of tree preservation to be factored into the application of zoning regulations more flexibly

[11:36:42 AM]

without necessarily going through the board of judgment process. And we would certainly do our very best to find ways to further that objective. But we do think it presents challenges. Generally, the -- except in limited instances, you know, granting reduced standards from sort of your classic zoning

--soaping regulations, heights, impervious covers, setbacks, except in certain instances that should be handled through construction process and I think that there's sort of some tension within those principles and within how this amendment is crafted. But as with many of council's amendments, you know, we will -- we've done our best to try to find alternative ways to address them, and if this amendment passes, we would certainly just go back through the issues and see if there's additional provisions that we could recommend that would further the overall objective of this amendment. But as it's currently framed,

[11:37:42 AM]

there definitely are some challenges -- challenges with it.

>> Mayor Adler: Okay. Any further discussion on Ellis 3? Take a vote. Those in favor of Ellis 3, please raise your hand. Those opposed? Voting no is pool and alter and tovo. The others voting aye. Ellis 3 passes.

>> Kitchen: Mayor?

>> Mayor Adler: Yes.

>> Kitchen: I meant to make a comment before.

>> Mayor Adler: Okay.

>> Kitchen: I'm going to move forward with this, but I still remain concerned about the administrative variances related to tree protections, and so I'm going to continue to work on addressing those kinds of issues between now and third reading and supporting this doesn't mean that -- that I don't want to push for -- push for -- I'm not in favor of the stepping back that we've done in terms of tree preservation.

>> Mayor Adler: Okay. As with all things, you know,

[11:38:48 AM]

beauties in the eyes of the beholder. I don't see stepping back --

>> Kitchen: I understand we may disagree but I do see us stepping back.

>> Alter: I just wanted -- I just want to comment. I applaud the intent of that, but I'm just not comfortable voting in favor at this point.

>> Mayor Adler: Okay. Tovo 7. Any discussion? I'm going to vote no for this one for the same reason that I had urged us not to deal with this issue now, to pick it up kind of all together. I think that's the better way to do it than kind of piecemeal. The other one failed, too, and I think we should be treating -- handling all these at the same time and in the same way.

>> Tovo: You know, I'm comfortable with that approach. I think I'm -- it is not -- I mean, to me, right now, though, the definitions of co-housing and group residential are blurry in

[11:39:49 AM]

what we have before us, so I'm not -- you know, since we're passing -- I mean I guess, mayor, are you suggesting that those could be -- we could go back and revise those after the land development code if necessary?

>> Mayor Adler: Yes. I agree with you, they are blurry. I think the whole area needs to be looked at and figured out better.

>> Tovo: Okay. That's fine. I'll withdraw mine.

>> Mayor Adler: Okay. 7 is withdrawn. That gets us to tovo 10. Discussion, councilmember Casar.

>> Casar: Mayor, I'd like to hear staff's thoughts on this. It's hard for me to know what should be great streets or not, if Rainey street sure, then I'm supportive.

>> From what we paid, the great streets does apply in the Rainey

[11:40:50 AM]

area as a gatekeeper requirement to the bonus program. And so we're not opposed to a requirement for great streets outside of the bonus requirement. We're not opposed to that. But that's not how it works today.

>> Casar: Not opposed is fine. Is it a good idea?

>> Yes.

>> Casar: To apply it?

>> Yes.

>> Casar: Okay. So you're supportive of it.

>> Yes.

>> Casar: Okay. Then I'm good. I'll vote for that.

>> Mayor Adler: Take a vote. All in favor of tovo 10, please raise your hands. Those opposed?  
Unanimously adopted. That gets us up to alter 1. Any discussion on alter 1?

>> Casar: I don't need to pull alter 1 anymore.

>> Mayor Adler: Those in favor of alter 1, please raise your hand.

>> Alter: If people are going to vote against it, I'll speak to it.

>> Mayor Adler: Those in favor of alter 1, please raise your hand. Opposed? Unanimously approved.

[11:41:50 AM]

What about alter 2? Those in favor of alter 2, please raise your hand. Those opposed? Harper-madison votes no, the others voting aye. Alter 2 passes. That gets us to Adler nz 1 on parkland dedication. So my intent on this was, and my understanding was, is that this codifies what is generally the practice right now of pard. This had come up before and we had handled part of it, the size of the tracks less than .166. You know, going back to what councilmember pool said earlier, we're trying not to make choices between affordability and parkland. I think we should be trying to do that in all kinds of instances, and I think that's what this

[11:42:52 AM]

does. It tries to codify what is the current practice. Pard has not really asked for parkland, as I understand it, on tracks this size, except in certain instances. So we drafted this to say that pard could ask for the dedication when those instances exist. We even went further than that, we said even when those instances don't exist, pard can still do it and basically brought in the same language that enables pard to go above the 15% in the urban core area when it wants to. So we allow for pard to ask for dedication in -- in, you know, park-deficient areas where there's a need or when there's, like, a park behind it and you want to have access to that. So I think that this provides the certainty for folks that are trying to help us achieve the

[11:43:52 AM]

maximum affordability and density along the corridors, it codifies pretty much what existing practice is, and is that balance of not having to choose between affordability and parks. Anybody have any further discussion on this before we vote? Councilmember alter.

>> Alter: Yes. I appreciate the intent of this is to codify existing practices and, mayor, we've had several opportunities to talk about this and to meet with some of the stakeholder. I wanted to ask Mr. Grantham if you could confirm whether or not this actually does codify existing practices because it's my understanding that, as written, it makes substantial changes to our existing practices.

>> Thank you, councilmember. Yes, this amendment would make some pretty significant changes to existing practice. Staff feels like this amendment

[11:44:53 AM]

is a good basis to codify existing practice, so this is something that we're willing to work with and to -- to make that -- to make the language fit existing practice. We can bring that language back for a third reading. For example, the idea of the appeal to land use commission, it does fit within what is appeal today. And so that language could be borrowed from what is in current code.

>> Alter: So I'd like to ask you to be more specific about some of the ways that it deviates because I think it's very significant.

>> Uh-huh.

>> Alter: So, it says that you couldn't do it until it's above six acres. Can you speak to what we've seen in terms of acreage and what matters?

>> Yes, ma'am.

[11:45:56 AM]

The -- really, in looking at housing and the review cases that we've seen, we've found that almost all -- all parcels that are -- almost all parcels are able to meet their desired unit yields at three acres or less. So that typically would be -- and that would be along corridors or elsewhere. The three to six range, in those cases, we've seen that the development -- the development community can both meet their desired unit yields and dedicate parkland. So we see that as a win-win because there is -- they're able to do both.

>> Alter: Were you finished? Or did you want to say something else?

>> Just that there's -- we've

[11:46:56 AM]

really looked deeply at this question, and looked at construction types and -- and really had some pretty frank discussions with developers about the sizes of their developments, the construction styles, such as the Texas wrap building, and we found that most, if not all, properties are able to be able to meet their desired yields within a three-acre parcel. If it's between three and six acres, they can often get more than -- they might have been able to satisfy the units on an even smaller lot, smaller footprint. We've seen -- recently one came across my desk with 500 units on .8 acres, and that's in west campus. But it just shows you that the

[11:47:59 AM]

construction style in that case would accommodate that. We do work with developers on a regular basis. Our ultimate tool that we offer, and really, it's being elevated in this code, is the early determination or parkland determination process, which is available to all -- all applicants as a free service before they submit their application, which is done -- turned around in one to two weeks and lets them know whether parkland dedication requirements -- whether land or fees or a combination would be -- would be offered, would be required.

>> Alter: Has anyone provided documented, specific examples of how current pod has negatively impacted the development of housing? And if so, have staff been able to confirm that fact?

>> We've been able to -- we've gotten several lists of -- of

[11:49:02 AM]

developments that the development community felt like impacted units, but then when we really looked at that list, we found that that was not the case. So, really, I have to say the answer is no. We have no confirmed cases where the unit yield has been impacted significantly. Now, there may have been -- there may have been a few cases where there might have been a few -- a handful of units lost on, like, a 300-unit development of, you know, no more than -- no more than ten units impacted.

>> Alter: Thank you. So the six acres is an arbitrary threshold. Can you tell me if the proposal matches current practices of preserving creeks and trails?

>> The amendment as proposed does not. It -- there's some technical language there that the proposed

[11:50:03 AM]

amendment has a -- it mentions mention floodplain. And in reviewing we would look more at creeks and water bodies as priorities, so that would be something that we would want to change for third reading.

>> Alter: So it doesn't match with respect to how creeks and trails are handled for parkland.

>> Correct.

>> Alter: Okay. So what happens if you provide that only -- they only get counted if it's 100% credit for all land?

>> This is a tricky one. Essentially, it kind of tries to get inside the crediting of parkland. And the idea is that, in general, in encumbered land, so floodplain, also easements, are credited at less than 100%. And what that achieves is that it

[11:51:06 AM]

recognizes that not all land is equal, and that parks can build -- we can build infrastructure and we can build playscapes and trails in typically high and dry land, versus land in the floodplain. We can still put a trail, but not much else, typically. So in doing -- looking at the crediting, the whole -- the idea is that if you credited everything at 100%, I think you'd have the principle that in cases of land dedication, we would get less quality parkland, so we would get lower quality and less potential to put active recreation uses. And it would also have the unintended consequence of reducing our fees because it

[11:52:06 AM]

would mean that if, really, you're looking at like 100% pie chart, and you credit things to make up a part of the pie, then the rest of the pie would be fees. So by saying that you have 100% credit for that lesser land, that would ultimately reduce the fees that you would receive.

>> Alter: Thank you. And can you speak to where this would worsen park deficiency, given where our corridors are located that have park deficiencies?

>> We have looked at where the corridors are in the city, and the -- there are more -- more of the corridors are located east of I-35. And so the staff's analysis would indicate that in -- in

[11:53:08 AM]

crediting -- in reducing the ability to ask for parkland, that would have a larger impact on the east side.

>> Alter: So when you say a large number, is this a correct statistic 91% of the parcels along corridors and centers that are park deficient are east of mopac?

>> That is correct.

>> Alter: Okay. And then the appeal for the requirement for parkland can already go to the land use commission in existing code.

>> Uh-huh.

>> Alter: It's just that the developer has to bring it there rather than the director bring it there to request it. Is that correct?

>> That is correct.

>> Alter: Okay. Thank you. So, colleagues, I want you to understand from this discussion that while the intent of codifying existing packets is one that I could support, that is not what this amendment is doing. This amendment is making it so that we will not be providing the parkland that is needed in those

[11:54:09 AM]

parts of town that need it most as we densify. So I'm not going to support this. I'd like to hear what other colleagues think.

>> Mayor Adler: I'd like to ask you a couple questions myself, too, if I could. We had a meeting, everybody was gathered together and we asked how many times, and if you could name us instances where you had asked for -- where pard had asked for dedication for tracks that were smaller than six acres, except for instances like the ones that we've enumerated here. Prove a problem with including creeks and trails, I want to be sure we gather all these exceptions, and pard wasn't able to identify any tracks less than six acres where that had happened. I was told at the time that was the general practice of pard.

[11:55:09 AM]

Has that change?

>> If I understand your question, sir, it's that for tracks less than six acres that -- I'm sorry, could you repeat your question?

>> Mayor Adler: Less than six acres -- can you tell me places where less than six acres, pard has asked for dedication without one of the criteria that's listed here being present.

>> The criteria that is not present is parkland deficiency. So that comes back to, you know, different areas of town, such as the east side that are more parkland deficient, and they are -- that criterion is pretty important to us in terms of being able to provide a five- or ten-minute park within a five --

>> Mayor Adler: Were there any tracks less than six acres on the east side where you asked for that, for a parkland deficiency?

[11:56:10 AM]

>> Oh, absolutely. We've -- there are many -- there are many parcels and lots that are less than six acres that can and do provide parkland. And --

>> Mayor Adler: You've asked for dedication for parkland deficiencies.

>> Yes, sir.

>> Mayor Adler: And for that reason, we've allowed for you to be able to do that. In the meeting we had, you said here are the criteria that are a concern for us. We have, like, a trail on both sides, and we have these issues. Okay. Then we have the parkland deficient areas. This would allow you to still proceed for that, with the land use commission, the same way you do when you want to go above 15% in the downtown area for exactly the same kind of reasons. When you want to exceed the 15%. I know that you talked about being able to preserve the desired yield, but what we're trying to do here as part of of a

--part of a policy on the dais is

[11:57:12 AM]

maximum yield, we want as much affordability as we possibly can. If you take a six-acre tract and have 300 acres, that's almost five acres of land required in dedication from a six-acre tract. I'm not saying you shouldn't be able to do that, that's part of our policy. But before you do that, because of the obvious impact that it's going to have on the amount of affordability that you can put on a tract when you take five and six acres away -- again, I'm not saying you shouldn't do that, I'm just saying that a land use commission, somebody that has both the perspective of parks, but also affordability in the city and housing in the city, which the land use commissions have -- and I think this is a compromise. And I urge my colleagues to support it. Obviously when this started, there were questions in trying to change the amount of dedication that was required, limit the dedication that park was able to get in those instances, to help further our stated goal of trying

[11:58:15 AM]

to maximize the development potential in the corridors and many of the other departments in the city participated in that and comes up with kinds of compromise solutions to help us forward that ability to



be able to get that done. In this case with pard, I think that we have enabled pard to ask for the full amount, haven't compromised it at all, but in that part that's between 1.6 and 6, even allowing pard to do that, what we were told at the time is that it doesn't happen very -- it doesn't happen very often, and this would then codify that. I notice, colleagues, that we've lost a couple people from the dais so I would propose that we table this until everybody's back so we'll have a full complement on the dais. Any objection to that?

>> Kitchen: Mayor, if we're going to do that, I suggest we just go ahead and stop and take our break. It's almost 12:00 now.

>> Mayor Adler: Okay. I think we can do that.

[11:59:16 AM]

It's 11:58. Let us know -- we had -- the clerk had sent out to anticipate that we'd be back at 2:30. That gives us lunch and mobility, so let's plan on being back here at 2:30. This meeting is Reas he had. 11:58.

-- This meeting recessed at 11:58.

[2:37:59 PM]

>> Mayor Adler: All right, I think we're here. Need Alison to join us.

[2:39:27 PM]

Okay, I think we're all here. Let's go ahead and get started. 2:29, still February 13th, we're in the city council chambers, reconvening our special called meeting on the land development code. I think we are on the parks item, which is at the bottom of page 15 and 19, Adler and z1. So let's have discussion. I think we were talking to staff and I want you guys to comment on this. Again, you know, just trying to find the right balance to ensure both our priorities of parkland and also housing. Making sure we can get housing all over the city. I think I had asked the question pointed out to me, I may have asked my question wrong earlier this morning

[2:40:29 PM]

when I said we often ask for parkland dedication in the city. I meant on corridors because this only concerns corridor tracts. Are we frequently asking for parkland dedication on corridor tracts of less than six acres?

>> Scott from parks and recreation. Mayor, in the past we haven't had the distinction between corridors and noncorridors, but we have asked for parkland dedication on some corridor tracts.

>> Mayor Adler: It's pretty rare though, isn't it?

>> It is the exception.

>> Mayor Adler: It's an exception, it's rare and that's why we're trying to codify it. I would like to ask for our staff because it would seem as if having the dedication, and there are appropriate times to do it and this amendment as proposed would allow the dedication in many situations automatically. And even allow it in

[2:41:31 PM]

nonautomatic cases where park would go to the planning commission. Could it impact the housing yield on the corridors?

>> I would respond that during our testing and in our testing of the code that we looked at all nonzoning regulations per council direction on May 2nd and how through the lens of housing capacity. And all were determined to definitely have an effect on project delivery of units, including parkland.

>> Mayor Adler: Okay. Thank you.

>> I would like to add on that also that I misspoke earlier that in looking at -- in speaking with my team that we are actually not aware of any case of losing units to parkland dedication. And the reason for that is our ability to stack --

[2:42:35 PM]

stack regulations and count flood plain, in some cases fire lanes, land that is not considered otherwise usable for development as parkland.

>> Mayor Adler: And I've heard that. I've also heard from developers they don't bring projects sometimes because of the requirements that that happen. And I heard others that suggest that they have lost development potential on property. It's something that rarely do you ever do below six acres anyway, and that confirms what I heard that when you actually did the modeling, the parkland dedication showed that that could have an impact on housing yield. Okay. Further discussion on this item? Yes, councilmember alter.

>> Alter: So when we stopped before, you know, we had established that the intent that was on here was to codify existing practices

[2:43:37 PM]

with respect to parkland, that's what it says on the amendment. But that as written it makes substantial changes to existing practices. It's not actually codifying existing practices. We've heard that there's been no case where we've had to do that so this is -- there's no problem that we're trying to solve here with respect to that. The six acres is an arbitrary threshold. Multi-family developments are almost always able to meet desired unit yield on three acres or less. The proposal does not match with current practices for preserving creeks or trails for parkland. When you provide 100% credit for all land regardless of encumbrances, that would gliff us unusable parkland and lower the fee in lieus on centers. We heard this would lessen park deficiency in high growth areas mainly east Austin. We already have a process where the applicants may

[2:44:40 PM]

appeal to the land use commission. All of those are things that we know. We have no example of this having been a problem to date. I'm going to vote no on this amendment. I think that as we increase entitlements on the corridors and accelerate the development, we have certain areas of town that are extremely parkland deficient. This does not say if you are parkland deficient, you can require the dedication of parkland. It doesn't even say that. In my mind, this undermines the parkland dedication. I would remind you that since 1985, only 6% of parkland dedication cases have required land. If we want to adjust the parkland deficiencies that we have identified in our city, we need this tool. If we want to codify existing practice to provide

[2:45:41 PM]

certainty to the developers, I think this would be something that we could strive for in draft 3 and I would support that. But as written, this is a very substantial change to our parkland dedication requirements just at the time that we're most going the need the availability of that parkland.

>> Mayor Adler: Any further comment? Councilmember Casar.

>> Casar: I've seen the parks staff do a really good job on a lot of cases in my district. I've got the least amount of park acres of any district in my area. This council since 10-1 made major investments in the park staff has negotiated some hard and important deals. I think the mayor's amendment largely codifies a lot of that. There are some places where we have heard that somebody could come in and do

an office building, which has no parkland land being required on that corridor when we're trying to get housing and parks. A lot of times the parks department has to navigate that to try to avoid the

[2:46:43 PM]

case where we wind up with no parks and no housing and no income restricted units. I think they generally have navigated that and navigated that well. I think -- and I want to commend them for that. What this amendment does is if we reach some level of impasse where it looks like it can't be decided whether or not we're going to wind up just with an office building or housing aen the right size of the park, that it sets up in those parkland deficient areas essentially arbitration at the land use commission where planning commission can look at the facts. I think what this tries to do is make sure that we don't lose out on those corridor tracts where we want our housing, where we generally are trying to prioritize the transit that we get to that, and if there's cases where it looks like we mind up just getting an office building, that the land use commission can help arbitrate any disputes on whether we're getting the yield of housing we need or parks if the parks

[2:47:44 PM]

department is asking for the land. That's my hope how this works out.

>> Mayor Adler: Further discussion? Councilmember pool.

>> Pool: Thanks. Mr. Grantham, can you help me understand how often often -- I think we've talked about it a little bit here, but how often?

>> Yes, ma'am. The -- there is a cattle that is -- calculation that is part of the current parkland dedication ordinance and is being carried forward into the new draft. And essentially it -- it determines the amount of land that would be required. And I can tell you that since 2016, in no cases have we -- have we required the full amount of land. Basically there is a 15% cap on the amount of land that can be required, so if using

[2:48:46 PM]

that formula, that using an example of a very high density development, say, they would -- they would exceed -- they would exceed the 15% of their site that they would be required to dedicate. So in no cases would we or have we required the full amount that would be generated by that formula.

>> Pool: Okay. And I think earlier the mayor used an example about five acres on a six-acre tract, that five acres would be dedicated as parkland, and you mentioned a 15% cap. Could that -- could that example actually happen?

>> It could not. The -- really the 15% cap is set up for the urban core, but we would -- as a policy when looking at the corridors, we would apply that 15% cap. And so clearly that five

[2:49:47 PM]

acres on a six-acre site exceeds that. We would only go for 15%.

>> Pool: Right, and 15% would be a little less than one acre, .9 of an acre?

>> Yes, ma'am. That's a way of looking at it. We would start with the 15% and then we would negotiate from there. So, you know, they may land at 12% or, you know, 11, 10, something like that, and then the rest would be fee in lieu.

>> Pool: We went through this process in 2015, approved the update, mayor, to the parkland dedication ordinance in 2016, you may remember that. And so what this seems like to me is another bite at the apple for the folks who were part of the consensus that they themselves helped to craft in 2015. So I just want to repeat that. The people who brought us the changes that created the parkland dedication ordinance about four years ago are the same people who

[2:50:47 PM]

are coming back to us now to try to get additional concessions and entitlements that they were not able to achieve four years ago because instead what we got was a compromise where everybody left a little bit on the table. So several elements that represent the original proposal from the rica representatives before all the stakeholders sat down together are now included in this amendment. So my staff and I were part of this process, not as deeply involved as I believe I ought to have been at the time, which led to some issues, but I do understand how critical reaching that consensus was. And again, there were things that were left on the table as a result of that process. So that's a little bit of background. Mr. Grantham, can you tell me how many times has a developer appealed a parkland dedication decision by pard to the land commission?

>> So under the existing code, there is a provision

[2:51:48 PM]

that allows you -- that allows that appeal in cases where land dedication would be required, and that provision has never been exercised.

>> Pool: It's never been exercised. And that's a process that the developers themselves had input into and helped to set up as a catch-all and an appeal process in order to challenge an outcome that they might not agree with. Generally that's an appeal process.

>> That's correct.

>> Pool: Okay. So what I would say, mayor, is that if anyone in the development community wants to make changes to an ordinance that was so recently updated, that we take that up off-line. That would be a fairer approach for this particular -- this particular matter considering the critical nature and the concern and the interest that everyone has with regard to parkland.

>> Mayor Adler: Real quickly, I didn't realize that the code said that

[2:52:50 PM]

parks could only ask for 15% of the dedication on all corridors. Does it say that?

>> Currently, mayor, there is -- that provision -- the distinction between corridors and noncorridors is not in the code.

>> Mayor Adler: So you would be okay with us amending this to say the parkland -- add it, if that's true because it's not in the code now, right? In the code right now, you can ask for five acres on a six-acre tract. Isn't that true?

>> If it's outside the urban core.

>> Mayor Adler: Sure. 15% inside the urban core, but outside the urban core, the example that I gave that you said doesn't exist, I want to know if it exists. Outside the urban core on a six-acre tract, if I have 50 units to the acre, I want to be looking at potentially five acres of the six acres wouldn't I?

>> No, sir. We would not ever hold them to that.

>> Mayor Adler: But it's not written in the code. We're just trying to toed phi that.

[2:53:52 PM]

That would be an additional good change to say in no event will pard ask for more than 15% on corridors whether they are in the urban core or not. It goes beyond what I was asking for. I haven't had a chance to think about that to think whether I really want to do that so I'm not going to propose that now, but as we getting into third reading it's something we'll take a look at. We'll take a look at it then.

>> Yes, sir.

>> Mayor Adler: And then -- well, any further -- that's what it was, the other thing. The reason that I'm bringing this has nothing to do with any third party, councilmember pool. It's not developers, it's not builders, it's as a council as we've gone into this process, we've said that we wanted to prioritize housing. We wanted to prioritize housing on corridors. We know from the modeling that this kind of nonzoning

[2:54:53 PM]

requirement can have an impact on how much housing we get. So it's not being driven by anybody else, it's being driven by the agreement that we made in may and the conversations that as a council we've had subsequent to that.

>> Pool: So I disagreed with that amendment, of course, and I will say once again we don't need to choose between units of housing and parkland. It's a challenge, but there is a way for us to make that possible because Austin can certainly rise to challenges. I think that the question about within the urban core, which definition, by the way was expanded beyond what the urban core was at that time considered for the parkland dedication ordinance, that 15% cap outside of the urban core is as I recall a piece that the -- that rica wanted, that the developers wanted and that was left on the table in their effort to

[2:55:54 PM]

achieve a compromise. I would say again if the development community wants to make such specific -- and I would say critical changes to the ordinance that we passed, the parkland dedication ordinance, we recently updated it, that we take that off-line I would very much like to be a part of that conversation and I have not been able to be a part of that conversation because of the quorum requirements that we are facing. And so further, if we're going to take this item up, mayor, are you going to proceed with bringing this motion or are you going to wait for third reading to work out some additional changes?

>> Mayor Adler: I'm going to offer it now.

>> Pool: Then what I would like to do is earlier today you said you didn't realize that creeks and streams was not included -- were not included in your language, and so I would like to suggest that we add in part 1a, two little l, in a flood plain or creek or trail. And that would address the point that you made earlier today.

[2:56:54 PM]

Would you see that as friendly?

>> Mayor Adler: I would. Without objection, that amendment will be added.

>> Pool: And then I would like to substitute three acres for the six acres at the top threshold in the first part of the amendment.

>> Mayor Adler: I'm going to Ann who raised her hand. We can come back for additional amendments.

>> Kitchen: I'll defer to councilmember pool.

>> Mayor Adler: Does anybody else want to talk? Councilmember pool makes the amendment to move to three acres. Is there a second to that? Councilmember alter seconds that. Any discussion before we vote? Let's vote. Those in favor of going from six acres to three acres, please raise your hand. Tovo, pool, kitchen, opposed, please raise your hand. Balance of the dais. It does not pass.

>> Pool: I would like to reduce the 100% credit so we are reflecting current credit, which is 50%.

>> Mayor Adler: It's been moved to change from 100% credit to 50% credit. Is there a second to that?

[2:57:55 PM]

Councilmember alter seconds that. Let's take a vote. Those in favor raise your hand. Kitchen, tovo, pool and alter. Those opposed raise your hand. The balance of the dais, it does not pass.

>> Pool: The last thing, I would like to make sure that we include the criteria on this list that will affect the urban core the most and that's the parkland deficiency, the term we use there. That would be a new subcategory of criteria that would be a part 1a little v5 would read address a critical shortage of parkland for an area identified in the deficient parkland area map.

>> Mayor Adler: Councilmember pool --

>> Pool: That's the thank is in current code and it was lost in your amendment.

>> Mayor Adler: Councilmember pool is suggesting that we move deficient parkland from paragraph enumerated 3 in the amendment to move it up

[2:58:55 PM]

to 1 Roman numeral lower case v5. Councilmember alter seconds that. Let's take a vote.

>> Kitchen: Mayor, I have a question.

>> Mayor Adler: Go ahead.

>> Kitchen: So I'm wondering why you would consider accepting that as friendly amendment and if not can you tell me the difference between that and the language that you have.



>> Mayor Adler: Will not accept it because it happens so rare. I think the arbitor of this exception shouldn't be just a park focus, it should also be a body that's taking a look at affordability and housing and health and cross-discipline approach. So I think the final arbitor should be the planning commission because it happens rarely, I think it's appropriate for pard to

>> Kitchen: So you're distinguishing between that and the other criteria?

>> Mayor Adler: Yes.

>> Kitchen: So it seems Mo to me the remaining -- I know you probably don't mean it that way, but to me it's

[2:59:57 PM]

a top priority is parkland deficiency when we would not want to make an exception.

>> Mayor Adler: I hear that. The other exceptions are where have a trail on one side of a track and the other. If I don't have a trail on the intervening part, I think it's part that pard be able to connect those. When we're looking at park deficient areas I think we also have to take a look at the discount side of town on the number of housing units available for people so that there's access and capacity for people. These are all goals we like. I want us to complete parks and our park deficient areas. I want us to have housing supply available to the people that live in our community, but when you're not talking about a geographic perspective I think it's -- comparative, I think it's best handled by a body that has a better view. Councilmember alter.

>> Alter: Mayor, how does it simplify the process and make it go smooth four them to have to go to the planning commission to get a

[3:00:58 PM]

ruling when right now they can make an agreement that's a year out and binding.

>> Mayor Adler: I'm not sure that they do it before they actually do it, but in any event it happens, at least rarely.

>> Alter: It's never happened.

>> Mayor Adler: It has happened on yield from the planning --

>> Alter: It's never happened. Sorry, my apologies.

>> Mayor Adler: I think what I've proposed is the right balance. Any further discussion?

>> Alter: Yes, if I could continue. Mr. Scott, I don't want to put out the spot, but if there's something you would like to add to the discussion I would like to you speak. If you don't feel comfortable I understand that as well.

>> I'd be happy to answer any questions. I was just here to support

[3:01:58 PM]

some staff.

>> Alter: Thank you. So I want to make it really clear, if we don't have the parkland deficient criteria in there, we have just gutted this requirement for parkland deficiency. And we are telling parts of our community that they do not need to have access to parks and I'm really uncomfortable with that. I have sat in a room with the mayor, with pard staff, with development services, with Mr. Thrower, and Mr. Howard, and what was expressed was that there was a need for better certainty so that folks could plan. And when we concluded those discussions as I understood them was that pard was actually modeling the kind of flexibility we need to have within this code to be able to look at how things could be satisfied for different things. So fire lanes and water detention and other things are all calculated into this parkland deficiency and parkland dedication type of

[3:02:59 PM]

calculations, which is the same thing that we've been asking our utilities to do and other -- and pard is doing that already. We have no examples of where this is a problem. We have examples where we will have buildings built and people will not have access to parks and I think that that is extremely problematic direction for us to be moving forward. I believe that as we grow we need to improve access to our parks and green spaces. I believe our parks are critical I am important elements of a vibrant city and they are free and open to the public. It cannot support an item that I think will take us in the wrong direction. We already know that we have a long way to go to meet where our peer cities are in terms of access and I think the potential gain in terms of housing units is very, very small.

>> Mayor Adler: Councilmember kitchen.

>> Kitchen: I can't support this either for the same reasons. What bothers me is the -- I

[3:04:03 PM]

think -- what really bothers me is the thinking that we have to choose between parks and housing because everybody in this city deserves housing and they all deserve parks and it goes hand in hand.

And with the need to figure out a way where we can have that happen. To suggest that we cannot -- that we have to sacrifice parks for some part of the city, particularly the parkland deficient areas, which I think as councilmember said earlier is 91% on the eastside, that's a false dichotomy and it's not necessary. We can do better than that. And we have to do better than that.

>> Mayor Adler: And obviously I reject the suggestion that this in any way minimizes the ability of parkland to be able to get parkland in parkland deficient areas. I hope that you in every appropriate case seek to get it. Let's take a vote on --

>> Alter: Hold on one second. Mayor, I would like to ask staff do these changes, will

[3:05:05 PM]

they limit our I-10 to achieve our goals with regard to parkland deficient areas?

>> Harper-Madison: And after that I would like to contribute to the dialogue as well since we're spending so much time talking about east Austin.

>> Councilmember, yes, it will hinder our ability because there will be cases wherein we have table we are not able to not request parkland or that land use commission would determine perhaps that we could not request parkland in a deficient area.

>> Alter: Thank you.

>> Mayor Adler: Councilmember Harper-Madison.

>> Harper-Madison: So I'd like to start by saying I really, really appreciate the focus on deficiencies, especially for a community that forever has been historically underinvested in, but I do take issue when I feel like we cherry pick when it's time to really dig down into investing in east

[3:06:07 PM]

Austin. So the problem I'm finding with this dialogue in general is that I don't think we're offering the appropriate amount of grace to the nuance that's involved here. We need parks and green spaces. People need those. We need housing. People need that. And I don't think the conversation is as simple as we are making a decision between housing and/or parkland. I think what the mayor has produced, while certainly a very difficult conversation, is a balance, a compromise that I'm comfortable with, but what I don't want to have happen is have the implication for the general public be that the leadership, the representative for district 1 doesn't care about parks in east Austin. I also literally talk to my constituents everyday who are struggling because they don't have housing. They would tell you they don't care about a park!

[3:07:09 PM]

They want a house. And so I just want us to be very careful as we are attempting to advocate for communities and our constituents to not make assumptions about what they need. There's a very sort of condescending air of uncomfortableness when people who didn't ask them to do so are advocating for them in a way that is not accurate. So I will say that this is a difficult conversation, this is difficult subject matter. At the end of the day I can guarantee you most of the people, most of the 80,000 people I represent in district 1, are more concerned about their neighbors having access to homes. And I'd also like to

[3:08:11 PM]

conclude my commentary by saying ie had somebody share with me an example where the parkland -- and this was one of many, many agonizing factors I had to take into consideration during the course of this very difficult conversation. So to have any colleagues imply that this is easy is really just not attempt and it's unfair, frankly. One of the many factors I, as the -- the person who represents the eastern crescent that we are discussing, had to take into consideration during the course of this conversation is this thing that was presented to me that says, we lost 50 units of housing, five of which that would have been affordable at 60% mfi, by way of the

[3:09:11 PM]

requirement about -- around parkland dedication. This wasn't in my district, this was -- it goes on to say that brentwood park was five miles away and the other park was seven miles away. So close proximity to a park. Bye-bye way of this requirement we didn't get those 50 units of housing, 50% would have been mfi. That's deeply affordable housing that we need. I don't currently have an example in district 1 that there is a project that would have produced the yield we need that was compromised because of parkland dedication requirements, but I will certainly be looking for them. I will say and I will close with this, I am comfortable with the very difficult compromise and balance that we have struck by way of this amendment. I will be supporting it.

>> Mayor Adler: Those in favor of this amendment, please -- councilmember pool.

>> Pool: We had heard from staff that there were in fact no affordable units

[3:10:12 PM]

that were sacrificed by the parkland dedication. So if you have some examples, I would love to share them. Maybe you could just send them to me. It sounds like they may be in my district, but because we have some conflicting information here and so if you could that would be great. But staff did say that in all of the instances in the projects where they were involved that was not one of the outcomes.

>> Mayor Adler: Those in favor of this --

>> Alter: Scott, did you want to speak?

>> I just think it's very important to point out that affordable units are exempt from the parkland dedication ordinance. They do not count towards parkland dedication.

>> Tovo: Mayor, I wanted to ask Mr. Scott to -- I couldn't quite hear him.

>> I think it's important with that cement to point out that affordable units are exempt from parkland dedication requirements.

>> Harper-madison: I appreciate that. That still leaves 45 at market rate that --

[overlapping speakers].

>> 100% affordable development would require

[3:11:13 PM]

zero parkland dedication.

>> Mayor Adler: 100%. That's not the example that she was talking about obviously, right? Those in favor of this amendment please raise your hand? Those opposed? Opposed are kitchen, tovo, pool and alter. The amendment passes 7-4. Okay. I think that gets us to process. On page 16 of 19, this is -- it looks like harper-madison 11. Any discussion on harper-madison 11? I'm sorry? Pool, tovo and Mr. Flannigan pulled it. You have an amendment, you said?

>> Flannigan: Yes. So I have an amendment. It's at the poem of page 1, top of page 2 of my sheet

[3:12:13 PM]

and it would allow this review board to be an appointed board from the auditor's office in much the same way that we have an independent board for redistricting. I think that's a better way to create a check and balance on staff in the criteria manuals. On the whole I think the criteria manual review process is really important for transparency for a very critical portion of how the code gets implemented.

>> Mayor Adler: Okay. Anybody have any objection to that amendment being added?  
Councilmember.>> Kitchen: I'm sorry, maybe my question has to do with the entire thing, and maybe

the amendment also. Can you help me understand the extent to which there is legal rule making requirements that we have to follow. Maybe we don't. Can you just tell me if

[3:13:13 PM]

criteria manuals are subject to any kind of formal rule making process?

>> Councilmember, we do have a chapter of the city code that establishes a rule making process that all departments follow, both for the ldc and for all chapters of city code that requires notice, stakeholder process, response to stakeholder input and another notice of adoption and there's an appeal process to the city manager for that.

>> Kitchen: And the criteria manuals have to go through that process?

>> Yes, they do.

>> Kitchen: So my question then for staff is how is what's being proposed, is it consistent with that process or would overlay it or how would it work?

>> Councilmember, as we read it it would be an overlay on top of that process and we do not recommend that. What we-- I meant to have this open, but there was a prior council amendment that

[3:14:17 PM]

spoke to planning commission approval process that would be for the initial adoption of criteria manuals and it would provide also an additional level of process. And we can be supportive of that and I believe the law department -- and this is the document I'm fumbling for, but provided an uncodified section of the adopting ordinance that sort of lays that out and specifies some of the details for that and so that would provide the land use commission with the ability to approve or disapprove criteria manuals, they couldn't amend them, they're technical documents, but we're mindful of the need, the perceived need for public input and review of the criteria manuals. And we would prefer strongly recommend that approach as opposed to sort of the more detailed amendment that's been offered that would create a committee process.

>> Kitchen: Okay. I believe that the amendment you're referring to I think was on first reading, right? I think it was councilmember Casar's amendment. Okay.

[3:15:17 PM]

That approach seemed to make more sense to me. I don't want to do something that really doesn't work with our legal rule making process and I'm going to follow the staff's recommendation on that one, on this one.

>> Mayor Adler: Yes, councilmember tovo.

>> Tovo: I also have on page -- tovo 11, I also have an amendment with regard to this and I would ask that we discuss them together and I would ask staff to provide feedback. We did work with staff.

>> Mayor Adler: It looks like we have harper-madison 11, Flannigan 5 and tovo 11 that all seem to be addressing this same issue. Is that right? Harper-madison 11, Flannigan 5 and tovo 11.

>> Flannigan: And I

[3:16:19 PM]

rewrote Flannigan 5 as an amendment to harper-madison 11.

>> Mayor Adler: So how does that stand now in the -- I know that staff at one point was comfortable just doing the criteria manual and releasing them and then applying them. And in the discussions had there was desire to have greater public involvement in that and there were questions -- is the question now how would we do that greater public participation? Right? One of the -- the way that I had heard it discussed before is we were going to take it to the planning commission. Is that in the current draft of the code now?

>> It's in an uncodified section of the draft adopting ordinance that would adopt the new land development code. So it would be a process that applies to the initial

[3:17:20 PM]

adoption of criteria manuals and it would require planning commission approval, and we think that this process, which was responsive to first reading amendment, strikes the right balance between the technical nature of the documents, but also providing for a level of public review, and it would work well with the existing rule-making process. It wouldn't conflict with that. So what our recommendation is what's in the part 4 of the draft adopting ordinance that is posted to backup.

>> Mayor Adler: Okay. Commissioner Travillion.

>> Tovo: Mayor, can I ask Mr. -- Councilmember tovo.

>> Tovo: Mayor, can I ask Mr. Lloyd about the drafting ordinance that's posted into backup and my amendment tovo 11 that would appeal to the planning commission? I'm sorry, I don't have what you just described from the backup immediately in front of me. Is it in the staff report as

[3:18:23 PM]

well?

>> So the.

>> Harper-madison: -- I believe are we speaking to -- I'm sorry, I'm getting lost in the amendments here are. Are we speaking to harper-madison 11, is that the the one that's --

>> Mayor Adler: Yes, harper-madison 11 and also tovo 11. They're both 11. One is on page 16 of 19 and the other one, if you're home following along, is on page 19 of 19.

>> Harper-madison: Councilmember tovo, could you specifically direct Mr. Lloyd to respond to whether he's speaking to your amendment or mine? Because I don't think there are enough alike to where I would --

>> Tovo: I'm confused about that too, councilmember harper-madison, thanks for that clarification. I think we're talking about -- I think we're talking really about three alternative paths, right? We have councilmember harper-madison's, mine and what you just described in a document posted to backup,

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but I'm not sure any of us have in front of us. I don't at the moment. But you described the thing posted to backup as involving the planning commission and mine involves the planning commission, and councilmember harper-madison's does not, if I'm correct. So I wanted you to -- so I'm trying to understand the differences among these and what your recommendations are and what you describe sounded like the one that I've posted and I was just asking you to confirm that. So if you could explicate all of those bundled questions.

>> We'll do the best we can. So it's an uncoded section of the actual ordinance that would adopt the new code in part 4 which appears at page 3 through 4 of the draft ordinance is very simple and it just says that the initial adoption of any criteria manual under the new code would require planning commission approval. It would -- the planning commission would be limited

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to accepting or denying the initial adoption and they wouldn't have the ability to actually amend it. We think that's important because there are technical documents and the reviews should be at a higher level and not as -- not like they're reviewing zoning ordinance. And it would -- it would override the initial timeline that's established for the rule making process and subsequent amendments after the



initial adoption would go through the normal process. So this is serbly a one time process that would apply to the initial adoption, and this is set forth in the draft ordinance. Harper-madison's -- councilmember harper-madison's amendment would establish a process anchored to the city auditor's office that would involve an interdepartmental review process and a process that would occur under the auspices of the auditor's

[3:21:26 PM]

office. And we think that this -- based on our discussions internally with staff and our experience in administering the criteria manual process we would strongly favor the sort of broader general approach that's reflected in the draft ordinance that's posted. And councilmember tovo, I think -- I think your proposal is definitely closer to what I've outlined with respect to the planning commission review. I would need to review it closely to see if there might be some discrepancies, but I think our recommendation is part 4 of the draft ordinance which would again be a one time approval by the planning commission and it would after that just be the normal rule-making process.

>> Mayor Adler: Okay. Councilmember Flannigan.

>> Flannigan: If I'm understanding correctly, we're satisfied with the initial adoption PC process. That's not the part we're talking about. We're talking about what

[3:22:27 PM]

happens in an update. And there does seem to be, I think, councilmember tovo, two or three options in front of us, but for some very specific detail that might be different. But if I'm reading it correctly, councilmember harper-madison wants those updates to be arbitrated by a staff, plus city auditor team. My suggestion is there be an independent team appointed by the city auditor and it sounds like your amendment says that PC is that team. I think that is the choice and the details staff can probably work out before third reading. We just need to pick which one of those we want to go with.

>> Mayor Adler: So as I understand it, no one is seeking to change the initial adoption of the criteria manual which absent further change, even if all these passed, does not change the provision for initial adoption. Is that correct?

>> Harper-madison: More or less, I think if it's helpful for me to talk to intent here, we're talking about an interdepartmental

[3:23:29 PM]

process. I say this all the time, the duplicative thing that we do as a municipality is a problem for me, so just wanting to make sure there aren't any duplications of effort, that we don't contradict what we've put forward as our goals and then just thinking through while I appreciate the contributions of all of our commissions, planning commission is obviously extraordinarily important to us. Just thinking through some of this technical data, not all of our planning commissioners are specifically technically able to speak to the technical data so the hope was our city auditor's team able to put together industry experts, professionals, who could specifically speak to the technical data as opposed to us running the risk of having it not be properly vetted.

>> Mayor Adler: So let's continue that.

[3:24:30 PM]

Again, no one is by this attending to address the initial adoption situation. The question is what happens after that for changes or reviews. Councilmember tovo.

>> Tovo: Councilmember harper-madison, are the people on your committee -- as I read your amendment they're all internal city employees. Is that accurate?

>> Harper-madison: No.

>> Tovo: So the committee of the -- which part -- I'm sorry, I'm just not seeing. Which is the provision that talks about community members. I thought I had seen it initially, but then I wasn't seeing it here in what I have before me. It talked about committee of the ldc commission team, teams and the city auditor, but I think you used the term industry experts.

>> Harper-madison: That was more me speaking to the rationale. I don't know that we

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specifically used that language. So departmental representatives. So yes, within the city.

>> Tovo: I see, okay. May I ask the staff? I guess I'm -- if there were to be a committee, what would your suggestions be as to who that committee consist of? Would it make better sense to have departmental representatives? To have it be of the planning commission? What I would not support is having it be an external committee of just hand picked community members, but what would the staff's recommendation be if there's a will among the council to have a committee of some sort?

>> Harper-madison: If I may interject real quick before you guys respond. Just in my mind's eye, sort of like we have the team for our land development code revision, we have somebody from watershed.

[3:26:32 PM]

That's how I envision it.

>> Tovo: Sure. That is helpful.

>> So I think in our last supplemental staff report I believe or perhaps it was the one before that, the city manager signaled in that report that we would following coded option keep some version of what the multi-departmental process that's been assembled for this rewrite together. So it would be our intent going forward for implementation to really try to replicate the interdepartmental review process that's sort of informed the drafts of the code that over the last several months to keep that together and on some level so that rules are looked at holistically from the lens of all different departmental perspectives. But I guess our recommendation would be that that not be prescribed, that that be left to the city manager's discretion and judgment and we've signaled that that's definitely something that we're committed to doing.

[3:27:34 PM]

I would also point out just briefly that our recommendation as reflected in the draft ordinance that's before council does not include an appeal process. And I think that the proposal that was the amendment at first reading encouraged that there be an appeals process. And we are suggesting that there not be one and so councilmember tovo, I think some of your version attempts to sort of narrow the appeals process and our proposal is that there not be one. So again, our recommendation is as reflected in the draft ordinance.

>> If I could get some clarification. With the harper-madison -- with both, is your anticipation that this is as we said before on top of the standard rule making process so that we would go through the rule making process, for

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example whatever department does the technical rules, would draft them, do the technical review, go back to this team and go back to the posting for adoption, the input from all the stakeholders, the response to stakeholders. There is a process and I'm not sure whether you mean this to replace it or to try to fit that into the process. And the same I guess would go with tovo 11 to try to give some thought to how -- how you want this to fit into the existing rule process. This was an appeal in the rule process to the city manager, just not to the planning commission, just to clarify.

>> Harper-madison: The ultimate goal is to streamline the process. I wasn't aware that it was an option to replace the current process. I thought we were amending the current process. Councilmember tovo was it your intention to replace or to amend the current

[3:29:37 PM]

process?

>> Tovo: So I think that -- yeah, I guess a part of what's happened here is that we were trying to respond to some of the other proposals about how to handle this and I think after all this conversation, which has been really valuable, I think I'm going to -- I would be inclined to withdraw mine and just go with the staff recommendation. That's sort of where I am at the moment. And perhaps if we want them to outline that a little further how they would handle appeals. Well, I guess you've just answered it, you would handle appeals like they are currently managed, through the manager.

>> Yes. So the rule-making process and just a little background, all rules, including criteria manuals, have to go through a process that already built into it is a level of notice and

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stakeholder input and review. And within that process there is an appeal. It's not -- usually when I think of appeal I think of an appeal to a board or commission, but there is an appeal built into the rule-making process that goes from staff to the city manager that is authorized. What the staff recommendation would do and it's responsive to the council's direction at first reading is it would add to that a process for planning commission approval. It would be a one-time process that would be for the initial adoption. It would not apply to subsequent amendments. And it would add a heightened level of review to on top of the standard rule making process. And we think this respects the need for efficiency and the technical nature of the rule-making process, but honors the wish of council and the community to have a higher level of public engagement and awareness about the rule-making process and about the substance of criteria manuals. And again as we stated in

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our supplemental report we're committed going forward with rule making with criteria manuals to do a better job of having all departments involved in looking at the content of the rules and making sure that they're properly coordinated among all the departments that implement the Idc.

>> Mayor Adler: Manager?

>> Appreciate the dialogue and one of the conversations we've been having over the last two weeks has been to really have a transparent process for the criteria manual adoption, not only the initial adoption, but future versions of that. And although some of the feedback that I've got from stakeholders is only within this past few weeks, one alternative would be just to keep that conversation going because I haven't had the chance to talk to each of you about what alternatives could be put forward. As Mr. Lloyd mentioned, at a minimum I've made that commitment to ensuring that

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there's a cross-departmental group that will continue to engage in these conversations, but then further than that how that interacts with our current-making process. I would want to get additional input from each of you as we might pursue a path forward. So obviously it's the will of the dais to act on these current amendments, but another alternative would be to allow me to work with each of you between second and three readings to further refine some of these proposals.

>> Harper-madison: I appreciate that. And if it helps at all to sort of really get to the heart of what some of my concerns are, looking for a set of rules and processes that are predictable, that are cost effective, that as we're moving into September and really needing to take a look at the budget and how this will streamline that process, those are some of my concerns. And I really appreciate the commentary from staff. But I'm taking into consideration how even within the year that I've

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been here, sometimes we have goals as a municipality. Staff will have goals that don't get accomplished. So I'm just looking for some sort of assurance that what's being proposed, what sounds like the same thing that we're saying, essentially a streamlined process that's predictable and cost effective will happen. I just want to make certain that it happens.

>>>> Mayor Adler: Would it be appropriate for us to substitute for this to say that we want staff to come back with a post initial adoption criteria manual process taking into account this conversation? And then you start a meeting -- immediately with my colleagues on this and get something to the balance of us as soon as you can as much prior to third reading as you possibly can. Does that work?

>> Harper-madison: I would like to take a vote on the item and if it doesn't pass then yes, I'm certainly comfortable with that. Either way I'm comfortable with that. But if codification is possible by way of a decision we make as a body,

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I'd like to at least have the opportunity for that to happen.

>> Mayor Adler: Okay. I'll probably vote for the substitute because I think it's press prescriptive. Let's take that vote first on yours and if it does not pass then we'll take a vote on the substitute. Yours for the Flannigan amendment. If it doesn't pass then on substitute. Let's vote first on the harper-madison with the Flannigan amendment. Those in favor raise your hand? Harper-madison, Flannigan, Casar, the mayor pro tem. Those opposed raise your hand? Okay. Balance of the dais with councilmember alter off. And

you voted yes for that as well? That would be five so it does not pass. Substitute motion as we said earlier those in favor of

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the substitute motion raise your hand. To come back with a post-adoption criteria manual process, taking into account the proposals that were made and the conversation that occurred on the dais and then I separately asked the manager if you would please make sure to talk to my colleagues and get something back to us as early in the process because I would imagine it's going to need time and a lot of eyes on it. Those in favor of that substitute please raise your hand? Those opposed? It's unanimous on the dais with councilmember alter off. That takes care of harper-madison 11 and tovo 11. That gets us then to harper-madison 12. Any discussion on this?

>> Tovo: Mayor, I had pulled it, but I'm comfortable with that.

>> Mayor Adler: Okay. Any objection --

>> Tovo: I think we should keep an eye on it. I think if we were starting to get lots of neighborhood

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plan amendments coming from the same areas it may not be as efficient with staff time. I don't need to discuss.

>> Harper-madison: Actually, while I appreciate your support, upon some further consideration and conservation, I would like to withdraw this item.

>> Mayor Adler: Okay. We're going to withdraw 12. That gets us then to kitchen 8. Councilmember Casar may have had a -- I think that councilmember Casar may have had a question. I wanted to start with some questions for staff. We may not need an amendment. I may be withdrawing it.

>> Mayor Adler: Why don't you ask your questions and see if you end up withdrawing it?

>> Kitchen: So the purpose of my amendment here is because I was seeing what happened to be -- to me to be some inconsistencies in terms of how we were-- how

[3:37:44 PM]

we were zoning parks -- I'm sorry, schools and the associated parks. So what am really am asking, want staff to do, is review how we are -- how that zoning is being done because I had thought that what we were doing is consistently zoning school properties as P and associated parks that were parkland is pr,

but I'm seeing some examples where that's not happening and some examples where it appears that it's not comparable zoning even. So, for example, I've got one elementary school that's in sf 3 and is being up zoned to an mu 3. So I would just -- what I'm attempting to do is ask staff if we can go back and review the zoning. And that's my purpose here.

[3:38:45 PM]

So is that something that staff -- can staff speak to that? What I'm asking for is comparable -- I'm for treating all these schools the same way.

>> Councilmember kitchen, the application of the Zones to the map were carried over from draft 3 per the direction on may 2nd. And with draft 3 we had a P public designation for schools and so moving into this draft we continued the P public unless there was a Flum, a neighborhood plan future land use map that has a different designation and that is the draft that's before you today. So we feel like we have reviewed those for accuracy. We're happy to do more of that, but we feel like the draft that is before council

[3:39:50 PM]

is -- is in service to the may 2nd direction and in coordination with the school district as well. We feel like perhaps certain direction would be needed to do anything different than what we've done with the draft to this before you.

>> Kitchen: I don't see this as being consistent. So what I have seen is that that-- I'm going to withdraw it and we'll talk about it more and then I can bring it up on third reading, but I have shown you examples where it is not. So for example, -- I've shown you examples of where the school property, the park is not marked as a park, is not marked pr where it is on the Flum as pr from a neighborhood plan. And it's also included as a

[3:40:51 PM]

park in the map of the city's parks. So I'm going to pull it down right now and consider that conversation, but I need to understand exactly what you need to see to prove it because I've given you multiple documents to do that. So instead of dragging the council through that right now I'm going to have that conversation with you again and then -- and talk to my colleagues because I can show you that these schools at least do not meet the criteria. So I'm going to withdraw it at this point.

>> Okay. Yes, councilmember tovo.

>> Tovo: Can I get some clarification on that? On that amendment? I know you've withdrawn it, councilmember kitchen, but I guess I'm wondering, staff, if you could respond to why some of these examples were not zoned in the way that councilmember kitchen is pointing out based on the earlier direction.

[3:41:54 PM]

Maybe we could talk about, say, Joslin or any as an example. But if it's currently -- if that was the council direction can you help us understand the mapping?

>> So the mapping for schools to kind of reiterate what annick just laid out was to shown all schools to P public unless there was a Flum that designated them otherwise and this was a carryover from the mapping that was done as part of draft 3 of the former process. So there are a limited set of schools where the Flum designates a zoning district or character district or land use that is different than civic or public. And I believe some of these schools are examples of those instances. And to the parks that are attached to schools, we're happy to rereview the application of pr versus P where there's a school in part combo, but there are instances sometimes where the city owns the land and

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sometimes the city just has an interest in the land. So that has influenced whether a pr designation was placed on the parks or not.

>> Tovo: So if the city is using it, if it's a joint facility some of them are when it's jointly used as parkland by aid and the city of Austin, what designation did it get, P or pr?

>> I don't know if I can speak to that directly. Can you specify further?

>> Sure. You can sort of crafted a distinction between two parts of the parkland. I remember from the urban parks land force it sometimes varies. In some case the cities owns the land and in some case aid owns the land, but we usually have a agreement about it being jointly used. And so is in those instances where it's being used as parkland regardless of the ownership, is it being owned as pr for park.

>> If the city owns the land then it would be zoned pr.

[3:43:59 PM]

Otherwise it would match up with the Flum designation and the designation we had for schools.

>> Tovo: When it's being used as a park by the city and aid, zoning it park.



>> Kitchen: Yes.

>> I support that. It does feel like a policy direction that is consistent with our may direction, but it doesn't look as if it's going to happen without further policy direction. So especially because the task force I just sighted. The urban parks group, was looking at opportunities for closing some of the park gaps through the use of these joint -- we've come to rely some of those playgrounds/parks to help close our parkland. Needs, help close our parkland gaps. So making sure that -- making sure that their designation reflects their current use and what we intend for it to be in the future would seem to make

[3:45:00 PM]

sense. But those are my thoughts.

>> Kitchen: Am I hearing that school is zoned P unless there's a Flum that designates otherwise. Unless there's a park next to a school. In other words, a park next to a school is zoned pr if the city owns it regardless of where the Flum says? If there's a Flum? Are you not looking at the Flum for both circumstances?

>> Correct. We do have a city, municipality owned parkland zoned park -- I have to double-check this because this is built off of former processes that we have to review through the quality control. But yes, the park methodology of zoning school -- municipality owned parkland as park was the methodology we followed for

[3:46:01 PM]

those properties.

>> Kitchen: So there's a different methodology for on a park next to the school than the school itself.

>> Yes. So schools were a standard P or Flum -- I believe parks we're following because -- if I remember correctly -- I actually have to go back and look back into this further to give you the better answers. I have to go rereview this.

>> Kitchen: That's fine. It's just that I am aware of circumstances which we've talked about where the Flum shows a park next to a school as a park. And the city has an interest in it and the city lists it as a park. But it's not zoned that way.

>> We'll have to check the character districts and the land use designations.

>> Kitchen: And there's another -- the Joslin, where it's zoned as a -- I think

[3:47:04 PM]

it's an sf 3, but it's up zoned to an mu 3. So anyway, this just appears to me to be really inconsistent across all of these. And that's why I hear you saying that you feel like you've done it correctly, but I know you're going back to be doing some consistency checks now as you said and you're also creating the translation table. So I will pull this down right now, understanding that you will be running these parklands through the translation table and your consistency check, right? Then I would just like to have further conversations about it.

>> Mayor Adler: Okay. This number is withdrawn. Kitchen 8.

>> Mayor?

>> Ellis: Just real quickly could I make a recommendation on that issue, if we could have some of the info so that we could have our own meetings with aid. I want to make sure we're fostering good partnerships with them and I'm understanding what's going on in my district too.

[3:48:05 PM]

That would be helpful if we're going to revisit the topic.

>> Mayor Adler: Okay. Let's go back up to harper-madison 12. You withdrew this.

>> Harper-madison: I did. There was an unresolved issue that I hadn't heard back with until now. Now that I have the confirmation going forward with the permission of the board of the body, I would like to bring it back, please.

>> Mayor Adler: This is on 16 of 19, harper-madison 12. I think councilmember tovo you said you were okay with this moving forward S there any objection to harper-madison 12 being adopted, put into the base motion? Hearing none, -- go ahead.

>> I would like to be seen voting no on that.

>> Mayor Adler: Anybody

[3:49:06 PM]

else want to be seen voting no? On harper-madison 12 with alter being shown a no and councilmember pool being shown abstaining, this passes and moves forward. Others voting aye.

>> Pool: If I could explain, it's that we haven't talked about it. Hope to get up to speed on it by the time we get to third reading. Thanks.

>> Mayor Adler: Okay. I think that gets us to Kitch 9 on page 17 of 19.

>> Kitchen: I'm not sure who had pulled that one.

>> Councilmember harper-madison.

>> This would be a question for legal. Have you had an opportunity to review this one?

[3:50:11 PM]

>> I'm sorry, I've not.

>> So I wonder if we can come back to it. I pulled it because I have some questions about the legality of this one.

>> Do you want me to pull it down while they look at it.

>> Mayor Adler: We'll table that for right now. That gets us to Flannigan one.

>> Flannigan: Mayor, just to clarify on Flannigan 1, I'm speaking about the special exception level 2 that's in the most recent draft, not the iec. That special exception only is allowed in this draft starting at r4 and I'm wanting it to be allowed in all the residential house scale. That's the change I'm looking for.

>> Okay. Councilmember pool.

[3:51:12 PM]

>> Pool: Could we get some information on the impact of that. First let me ask, councilmember Flannigan, did you say that you don't mean alternative equivalent compliance, but you mean the special exceptions? Is there an amendment to this?

>> Flannigan: I just realized this was talking about the wrong thing. We called this at first reading. Staff implemented this as special exemption level 2 so I just mislabeled it in my amendment, but it's the section. It's 23-3-b-4040 in the draft. 23-3b-4040 is special exception level two.

>> Pool: Does that substitute for the words specialized equivalent?

>> Yes.

>> Pool: We were looking at it for aec and could staff explain the impacts.

>> Tovo: Sorry, mayor, could you point us to where -- if you've got your code I'm trying to find

[3:52:13 PM]

where a special exception is noted within 23-3b-4040.

>> Councilmember tovo, we'll get you the section in a moment. And by way of background, so the special exception was developed in response to council's direction at first reading. And I think there's a desire that's kind of emanated from a lot of different council proposals to find ways to potentially relax zoning standards when there are impacts from things like water quality ponds, tree preservation, detention, utility easements, things like that. So kind of looking at that issue holistically we proposed authorizing the board of adjustment to grant limited reductions in height and setback standards where there's deemed to be an impact to housing capacity. Also recognizing the board's ability to consider the compatibility with the

[3:53:13 PM]

surrounding neighborhood and those sorts of factors. As we understand it, this amendment would essentially change that exception process to allow it to be used in the residential house scale Zones as we developed it and as was posted in the current draft it would not be available in the house scale residential Zones. Additionally it appears to include floor area ratio as one of the regulations that could be modified and that was also not included in our draft. We're neutral with this. We can work with this proposal. I would point out as currently drafted, the caps as far as level of reduction that the board of adjustment could grant is at 10%. Around as I understand it, this would not change those thresholds.

>> Flannigan: And to be clear because sometimes we get mixed up in points versus percents, it's not -- if a regulation is 10% it's not taking it to 20.

[3:54:13 PM]

It would be allowing it to go to 11. It's 10% over whatever is defined.

>> Pool: So if it's at 10% it could go to 11%.

>> Yeah.

>> Mayor Adler: Okay. Councilmember tovo.

>> Tovo: Just in looking at this, I want to be clear. So this allows up to 10% beyond the maximum height allowed by the base zone up to 10% of a reduced setback if the board a of adjustment finds that the limitation of the site, the site is limiting housing production or applicable regulations other than those required by this chapter. So basically if you go and

[3:55:14 PM]

say there's a tree on my property that would classify as -- and this is keeping me from producing as many housing units, the board of adjustment could use that as a finding.

>> Potentially yes. They could look at things like utility easements, non-zoning regulations. And it wouldn't have to be a -- like generally when the board of adjustment is considering variances it has to be sort of a unique physical feature of the property that really impairs reasonable use. This would be a different standard on what is a non-zoning regulation having a tangible significant impact on housing capacity. This is a new direction for the board of adjustment and there are other cities throughout Texas and the nation that have created special exception processes that are sort of responsive to local circumstances and intended to kind of create flexibility in the application of zoning regulations. In instances where it may not be a classic hardship

[3:56:14 PM]

variance. And this is sort of moving in that direction with what we regard as appropriate limitations and we can certainly, if this amendment passes, we can certainly fold it into the draft that's already been posted.

>> Tovo: So just to finish my question. So this would apply this ability to any lot, any residential lot in the city could go and seek 10% more in terms of height or setback if they can make a persuasive case before the board of adjustment that some regulation within the city of Austin, some non-zoning regulation is keeping them from getting as much housing as they might otherwise.

>> Yes. It would add house scale residential Zones which in our draft were not included.

>> Tovo: Right. So any residential tract. Basically any residential tract in the entire city. Over the years I've heard arguments about how particular regulations --

[3:57:16 PM]

I've heard claims from developers that regulations ranging from parkland to a no step entrance to almost any other regulation we've considered -- that may be overstating it. Lots of regulations we've considered, people would argue that would increase the price so of course they weren't also suggesting that we have income restricted units. So they were going to be market rate anyway, but I've heard those kinds of arguments multiple times and I'm not going to support this.

>> Mayor Adler: Okay. Further discussion on Flannigan 1? Anybody object to the amendment being made that was handed out as described? Hearing none, the Flannigan 1 amendment is substituted.

>> Kitchen: Could you please read it?

>> Mayor Adler: It's been handed out and it changes the line that councilmember pool asked about. It identifies the correct

[3:58:17 PM]

section. Let's take a vote then on Flannigan number 1. Those in favor of Flannigan 1 raise your hand? Those opposed? Alter, pool, tovo. The others voting aye. It passes. And councilmember Renteria is off the dais. It passes. >>

>> Kitchen: Show me as a no also.

>> Mayor Adler: Show councilmember kitchen as a no on that. Flannigan 2 has been withdrawn. Flannigan 3 was withdrawn. Flannigan 4 withdrawn. Flannigan 5 withdrawn. That gets us to Ellis 4.

>> Harper-madison: Mayor, I got the answer from legal for the kippen amendment,

[3:59:17 PM]

just so you know whenever you are ready.

-- Kitchen.

>> Mayor Adler: Which number?

>> Harper-madison: 9.

>> Mayor Adler: Kitchen 9 on 17 and 19. Let's call this one off the table. Pick it up off the table. Any discussion on this one? Anybody have an objection to this?

>> [Inaudible - no mic on]

>> Mayor Adler: Do people want to discuss this.

>> Kitchen: Can you help me understand why?

>> Harper-madison: Sure.

>> Kitchen: I can't address your concern if you don't let me know what the problem is.

>> Harper-madison: I 100% appreciate THA and I've responded to your question off line.

>> Kitchen: Okay. Do other people have concerns?

>> Mayor Adler: Kitchen 9 on page 17 of 19.

[4:00:18 PM]

>> Kitchen: The example I gave is the tangle wood for rest limited district which is a special district with an elected board and this is the example I gave, using these nine properties as parks, they have asked us to zone them as their use as parks. And so that's what I'm giving as an example. So it's just to ensure that we are aligning our zoning with the existing use from special districts with elected boards. And councilmember harper-madison, if this is too broadly worded, I'm happy to reword it. I am concerned, of course, with this specific instance because it's an instance in my district that I'm familiar with. So I'm assuming that you don't have a problem with the tanglewood forest district and perhaps your concerns are elsewhere and I'm happy to make it less broad if that's what is concern is.

[4:01:18 PM]

>> Mayor Adler: Councilmember Casar.

>> Casar: These are not currently zoned as parks; is that right?

>> Kitchen: You mean what is the zoning proposed?

>> Casar: No, the current, today. Are these zoned as parks?

>> Kitchen: I don't know. I would have to go back and double-check. I'm trying to get to my information right now.

>> Casar: I think the staff had that answer.

>> We did do a recent review and a series of these are currently zoned rural residential and sf-2.

>> Casar: And so I'm going to oppose this because I don't think we've set a policy that we want to be zoning new things as parks through this pcess that we haven't zoned as parks. I would be happy to work with members in the parks department to set parks as zoning, but they are not currently zoned as parks so I don't know why it would be a problem to continue to not be zoned as parks if that's what their use has been.

>> Mayor Adler: Councilmember Ellis.

>> Ellis: Because I also have the lost creek limited district in mind, I'm not

[4:02:20 PM]

sure how this would apply to that, so while I am not opposed to it on its face as zoning things as parks, I would need to understand better how this would work in my district given that the -- the umbrella language would apply to things in my district. And so for that reason I can't support it today.

>> Kitchen: Mayor? Mayor, could I speak to that, please?

>> Mayor Adler: Thank on to that. Councilmember pool poll has yet to talk on that.

>> Pool: We had talked about the land development code effort as the opportunity to align parcels of land that needed to be zoned like specifically parks that are parks but are not zoned as parks. This was, in fact, that --

[4:03:22 PM]

this was the effort that we were supposed to be doing that in. And a number of us have withheld bringing resolutions or ordinance changes to regular council meetings specifically because we had anticipated, as staff had promised, and I think Mr. Lloyd was one of the ones who had specifically talked about this a few years ago, that we would be embracing this topic and addressing these concerns in a comprehensive manner through the land development code rewrite. It's specifically the opposite of what you are saying, councilmember Casar, and I say that because I've had these specific conversations with staff which you may not have. So I wanted to certainly surface that discussion, and if -- so I wanted to correct that apprehension. This is, in fact, the process that we were directed to to make the very changes that councilmember Kitchen is bringing.

[4:04:26 PM]

Mr. Lloyd, you remember those conversations, I hope.

>> I think so. But we -- I feel like the team has done the best we can through this process and I think some of the amendments that are being contemplated are ones that would be better suited to a subsequent process. I think there is a lot of prior zoning that has been applied in these contexts, but there are limited areas where the comparable equivalent zoning results in carrying forward different -- a different zoning category because we have today in existence zoning that is not -- that is not prior park zoning. So I think there are instances where, as we've talked about kind of less complex and demanding than small area planning would be some zoning refinement process that would follow code adoption where we deal with existing properties are

[4:05:26 PM]

zoning is not appropriate but requires on the ground analysis than we're able to do as part of the comprehensive revision process. This is one that we would recommend being deferred, but if the amendment passes, it's certainly one that we would be able to try to look at in the context of the larger criteria review that we're committed to doing.

>> Pool: That's great, and I just wanted to make the point this is the process we were directed to in order to make these kinds of changes.



>> Mayor Adler: Councilmember kitchen.

>> Kitchen: We passed this amendment last time, and so -- so I will withdraw it so that we can have further conversation and maybe there's a trueing up process -- you didn't use that word, whatever the word was you used.

>> Refinement.

>> Kitchen: Refinement. Maybe there's a refinement process, but the first line of this, we passed it. It was ensure that zoning assignments for state owned and publicly owned lands with elected boards allowing with current uses.

[4:06:27 PM]

So all of us passed that on first reading. So it sounds to me that I still need to work out with the staff how to put that -- how to put that direction into action because that was direction that was passed last time and the response I got was something that I wasn't quite sure what you all were intending. And so I apologize we didn't have the time to actually talk through this. But it's not new direction. It sounds to me like there may need to be a discussion about how to make it happen. Is that what I'm hearing?

>> Councilmember kitchen, we're certainly happy to talk with you further about this amendment, but I think at this time it's one that we would support looking at through the context of the post-adoption refinement process.

>> Kitchen: Okay.

>> Again, if it passes, we would look at it in the context of all the other

[4:07:28 PM]

zoning criteria that we're going to consider and we're happy to discuss this with you further after, you know, after today's meeting.

>> Kitchen: It's already passed. That's what I'm saying is it was passed on first reading, the then I read out generally was passed. So I -- all right. I want to make that clear. This is not a new amendment. It was passed and in y'all's report it was not something that you carried out. And so I guess, you know, and like I said, I apologize, we've had so much to talk about that I didn't get a chance to talk to you about why you didn't carry it out before. So it was -- it was passed on -- I tell you what, in the interest of time, I think it was passed -- yeah,

[4:08:29 PM]

it was kitchen number 19, passed on first reading. It's on page 77 of y'all's report. And so I just need to understand -- at this point I need to understand how we're going to carry it out. So I'll look through all of this -- I'll withdraw this at this point.

>> Mayor Adler: I think there's several other things in the same bucket.

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

>> Mayor Adler: Let's see what they come up with as their process. All right. Skipping over to page 18 and 19 with the ones withdrawn, that lets us to Ellis 4. Any discussion on Ellis 4? I think that councilmember harper-madison may have been the one to pull this. I don't know if you had a question or --

[4:09:30 PM]

>> [Inaudible - no mic on]

>> Mayor Adler: Residential construction signage.

>> Garza: Can I ask a question while she is looking for it?

>> Mayor Adler: Yes.

>> Garza: What is the current practice for -- that is different than this?

>> Councilmember, so we currently post signs when zoning changes are taking place designating what the zoning the and what's it's going to, but it doesn't specify the number of units being proposed.

>> And maybe I can clarify intent.

>> Garza: Because this -- that's fine, but it also refers to the building permit. So I guess -- I thought -- in my own experience in remodeling, it says everything on the building permit already of what you are doing, so I'm just wondering if this is -- when some things get -- you can clarify this too. When something is getting zoned, we don't necessarily

[4:10:31 PM]

know exactly what's being put there, so I'm trying to understand how this lines up with the -- it's two different stages. You have the zoning app and then somebody comes and decides to build something and that's, like, a separate process.

>> What we're seeing in my district is, you know, a house -- because there's notifications for zoning changes and demolition, there's no notification for what new structures might be coming into a

neighborhood. Because we had some concerns about people just asking how do I know what's being built, how do I make sure if we have other guiding documents that the city doesn't enforce, that we are in line with that. And so we thought because in large commercial projects they have signage posted that says here's what's being built, here's the storm water protection plan, here's the information. And I thought it would be helpful for people to know, you know, if the building is demolished, is it coming back as a single-family, a duplex just to make sure the

[4:11:32 PM]

neighbors knew what was going on. You know, the permit is public information, but the process of how to find out what's going on next door to you isn't always readily available, and I just wanted to size people kind of knowing what was going on down the street.

>> Mayor Adler: Councilmember Casar.

>> Casar: I think I could be okay with this if it was posting the permit on the construction site, but not, like, a larger sign, considering in some cases someone may be adding an Adu and putting a sign in the yard seems -- so I'm supportive of this if the direction is for the building permit to be visible to folks but not necessarily some large sign that might be more akin to a commercial project.

>> Ellis: My intent was essentially a sheet of paper that just had brief information how to figure out what has been permitted. Not a big wooden sign with all this paperwork the way you would see with a large commercial project.

>> Mayor Adler: Mayor

[4:12:32 PM]

pro tem.

>> Garza: I guess I'm -- so it's not about the zoning, it's not a zoning change. Sounds like it's a project. So I thought that already happens when something is being -- there's already -- the permit has to be up; is that correct?

>> Mayor and council, yes, when -- for most, I think all projects that are at least substantial construction, whether building permit or site plan, residential or commercial, the permit is posted at the property, so that's an existing requirement. We only require the posting of signs for zoning changes, as Greg mentioned, as well as variances and essentially discretionary type of approvals. We don't -- we haven't to date required the posting of signs or administratively approved permits of this nature. But we do require, as I mentioned, the posting of the actual permit itself on the site.

[4:13:34 PM]

>> Mayor Adler: Okay. Councilmember pool.

>> Pool: So I'm not sure how -- how does this change that? Is the sign that you are talking about or that you intend, is it something different than the permit that is put in the window?

>> We're just providing information about existing practices. This amendment appears to -- would require the posting of an actual sign at the site for construction in r1, r2, r3, r4 or rm1.

>> Pool: If there's no window, it would be on a fence or a placard? It wouldn't just be a piece of paper. It would be something substantial to withstand the weather. It would be outside.

>> Ellis: I would intending something that could be weather sealed but not larger than eight and a

[4:14:34 PM]

half by 11. Just if we'll were wondering out of a potential rebuild, what it's coming back as. Easy for people to understand without knowing they have to take a photo, go back to the city web site, navigate the search function. A quick here's what's being built, here's what it is.

>> Pool: I think that's great, we should provide the information, on various construction sites they do have that kind of information. So I mean it's great, but is there something that we're not doing that -- that this would cure?

>> Ellis: We just started asking questions if someone decides to rebuild a single-family home as another single-family home and if you didn't have mail notifications, it wasn't a commercial structure, the information included in the permit might not be as

[4:15:34 PM]

readily available. Because constituents reached out how do I know what is going stock built so I wanted to make that concise and easy to understand for a normal person who doesn't debate zoning.

>> Pool: I just ask how is that different from the notice that is put in councilmember Ellis' example, it was a home that's being demolished and a new home. There's either a fence up with the sign on that or in my experience, for example, right across the street from me when we had extensive renovations from one story to a two story, the permits were all attached on the inside of the windows so people could come up and see them. That's the standard place. What is this curing -- what are we not doing now that this will help fill? I would be surprised if we weren't.

>> Donna Gallady: I wanted to confirm the permit, once you pick up a construction permit it's required to be posted where it can be viewable from the

[4:16:36 PM]

right-of-way where people can come up and read it. And the information on the permit is what you would find when you look it up online. Were you to get a case number, that same information is printed on that page of the permit.

>> Pool: So this is more to the information that is being provided on the sign that we already post. We are expanding the amount of information being provided.

>> I'm not sure reading the amendment what additional information we would have to require or what size the sign would have to be that, you know, that people -- people getting a permit would then have to get a sign and I'm not sure what type of sign. We would have to figure that out.

>> Pool: Which was essentially what I was trying to understand, how is this -- what is this fixing and how would it be different from what we're doing today.

>> Mayor Adler: Thank you. Councilmember Tovo.

>> Tovo: Yeah, I agree

[4:17:38 PM]

with Councilmember Ellis. I think a lot of people don't know how to find this information on the city website and I think it could be a very useful and informative addition. So I'm going to support this.

>> Mayor Adler: Okay. Any further discussion?

>> Garza: I just want to be clear. It sounds like that you said is on the sign is the same thing as if you looked it up online. So you can either see it on the sign or look it up online, right?

>> Yes.

>> Garza: So there's nothing more you get by going online. Same information, right?

>> Yes.

>> Garza: Okay. I'm fine with it, it sounds like we're doing it enough.

>> Mayor Adler: Okay. Ready to take a vote?

>> Casar: Does this mean we're just posting the building permit on site? Sounds like it. Sounds like we're just posting the building permit on the site. Not asking like a wooden thing.

>> Mayor Adler: Okay.

>> And quickly for staff, the building permit that is

[4:18:38 PM]

required to be posted, does it tell the exact number of units that are going to be on that property? Or does it say here's the information, it's permit number?

>> Typically it does have an info and comment field, but we can certainly take a look at those comment fields considering that we have new regulations and look at -- and make sure that those comment fields are being filled out with information such as unit numbers.

>> Ellis: And what I'm really going for is people to know are there going to be two units on what was not two or is it a r4 that's getting four or, you know so people really know number of units on the ground. That's what people want to see when they are walking by.

>> We can certainly look at the permit that is being posted on site and ensure that the number -- the unit number and those sorts of details are included. And if that's how the tweak works, I'm happy with that.

[4:19:39 PM]

>> Mayor Adler: Sounds good. With that, those in favor of Ellis 4 lease raise your hands. Those opposed? Adopted unanimously. Ellis 5 withdrawn. That gets us to tovo 8. Pulled by councilmember Casar. And harper-madison.

>> Did you say tovo 8?

>> Mayor Adler: Tovo 8.

>> Casar: My code is having trouble with my search function. Will staff lay out what this section does really quick? The section being removed.

>> Tovo: Councilmember Casar, I'm going to lend you my book if you accept this as friendly.

>> Casar: My control F is broken.

[4:20:46 PM]

Yeah, so I remember this section. This is where -- so this section, my understanding is that if -- there's a small -- if staff approves something in construction and permits it, but then it turns out that it's a little bit off, that we essentially to grant folks amnesty on that and that seems to make sense.

>> Yes, this was a provision that was from draft 3 and it was developed to deal with situations where somebody constructs a building and there's -- due to unforeseen issues with topography or other site features, it's off a little bit in terms of meeting the as-built, and this would allow an administrative approval for very minor setback-type encroachments. We found this provision similar to something at

[4:21:47 PM]

least one other city has adopted and so it was carried forward from draft 3.

>> Mayor Adler: Further discussion?

>> I'm sorry, I would point out just briefly that we added something to it from draft 3, and specifically just to be clear the -- one of the features of the new code is that we require single-family construction to comply with certain limited waterway setback requirements that currently do not apply to single-family construction. And those requirements could in certain cases have the significant impact on residential properties. And since this is a new requirement that historically has never applied to single-family homes, we created an administrative modification process that would allow staff to modify those waterway setback requirements as applied to

[4:22:50 PM]

certain single-family properties. And then other than that addition, it just simply carries forward some of the limited air and construction processes that I just mentioned.

>> Mayor Adler: Okay. Councilmember harper-madison.

>> Harper-madison: I just wanted to get clarification. You said limited and that might speak to my concern. What I was hoping wouldn't happen is we made small, simple, easy fixes harder to access. So are you saying this does not in fact make it more difficult to do easy fixes for residential?

>> No, it doesn't.

>> Harper-madison: Thank you.

>> Mayor Adler: Okay. Ready to take a vote?

>> Tovo: I would like to speak to the rationale here. So my concern about this provision, and I think when it was in codenext 3, without the addition

[inaudible] From a broad --

>> Mayor Adler: You've lost your sound.

[4:23:50 PM]

You had gone off.

>> Tovo: We heard concerns and I share them that this is potentially going to become a loophole because the threshold for accessing that additional 10% for a setback limitation or 5% for height requirement is really coming and asking and saying the site conditions were an honest mistake or other circumstances beyond the permittee's control led to this. And so I regard this as having a lot of potential for being a loophole and that's the reason I'm suggesting we remove it.

>> Councilmember tovo, staff with respect to the aspect of it that relates to errors found in construction, staff is neutral and so we do not object if council chooses to delete that provision. It was, as I mentioned, carried forward from draft 3 and we have found other city

[4:24:51 PM]

codes that have similar provisions. However, what we do strongly recommend that council include and not remove is the provision for administrative modifications to waterway setbacks. Again, that's a requirement that is historically not applied to single-family homes, and in an effort to try to require some degree of compliance with regard to creek buffers and things of that nature for single-family, we felt it was important to build in some flexibility at the administrative level. So we would -- we would recommend that that be kept but we're neutral with respect to the other dimension.

>> Tovo: Brent, thanks. And so just so I'm clear, did you say you saw it in one other code or multiple other cities' codes?

>> At least one and I cannot remember whether there were more.

>> Tovo: And so what you're suggesting as an alternative which would consider if this gets us to support, would be remove removing -- removing

[4:25:53 PM]

provision 2. So 232g, 2342, 3 and 4, and just making it applicable to the new watershed requirement.

>> Exactly. It would be I think removing subsection a, which is modifications to address errors in construction and keeping subsection B.



>> Tovo: That would be my -- let me open that up to the dais including those of you who expressed concerns.

>> Mayor Adler: Did you want to keep a this? Do you want to just change your motion?

>> Tovo: If it gets us to an inclusion of this, I would amend my motion so that we are removing just a, subsection a. So that there still is the

[4:26:54 PM]

option Brent described, so with these new watershed -- the new application of watershed regulations to residential properties the staff have the opportunity to consider the individual circumstances and approve an administrative modification, but that we eliminate this new provision for construction. That seems to me a good balance.

>> Mayor Adler: I see this as two separate questions with respect to the -- respect to B, the provision for the new circumstance. I haven't heard anybody suggest that should come out, so I think that should stay in. And with respect to a, I'm okay with the allowance for the flexibility. Further discussion?

>> Harper-madison: In reference to what Mr. Lloyd

[4:27:54 PM]

said about construction errors.

>> Mayor Adler: Correct.

>> Tovo: Let's just take it as it's originally crafted.

>> Mayor Adler: Those in favor of tovo 8 raise your hand. Harper-madison, kitchen, pool, and tovo. Those opposed to tovo 8, please raise your hand. And councilmember alter, you are --

>> Alter: I'm abstaining because I would have done the split.

>> Mayor Adler: Councilmember alter abstains, the others vote no. Tovo 8 does not pass.

>> Tovo: Mayor, I want to ask staff and I understand this is process related, but to try to bring backn ifc for such a minor point seems overkill. Could we get a report, could we get periodic reports about how often this is accessed, this provision is accessed? I guess I would ask and provide direction from the dais that if this ends up in the final land development code, that we get quarterly reports on how frequently

[4:28:56 PM]

development projects are accessing this modification to address errors in construction, both A and B provisions.

>> I think ultimately that would be a programmatic measure that would have to be posted, but in principle we are fine with that. We recognize especially the construction errors provision that we were talking about a minute ago does present challenges and we're cognizant of that. So definitely if directed by council we would be -- cognizant.

-- Monitoring how frequently it's used.

>> Tovo: If I could just ask staff to post that as consideration on third reading, then we would have that.

>> Mayor Adler: Okay. Tovo 11 has already been acted on with a substitute motion. That gets us to alter 4.

>> [Inaudible - no mic on]

>> Mayor Adler: I'm sorry? Alter 4. Discussion?

[4:29:57 PM]

Pulled by councilmember Flannigan and harper-madison. Discussion on alter 4.

>> Flannigan: I have this on my amendment sheet just to strike the last clause. I think if -- that they should still have the right to just withdraw their application without that 18-month penalty.

>> Mayor Adler: Say that again. Without --

>> Flannigan: Without the 18-month requirement before they can file again.

>> Mayor Adler: Okay. Mr. Flannigan proposes an amendment to strike the -- is it the last sentence? I'm sorry? Just beginning with and would be.

>> Flannigan: The second half of the last sentence.

>> Mayor Adler: Okay. Does anybody object to that amendment?

[4:30:58 PM]

>> Alter: You know, I -- I'm trying to understand what you are arguing. So you're saying that if it went forward as proposed with your changes and they wouldn't be able to continue their zoning case, they would have to go back to the beginning and start over, but they wouldn't have to wait the 18 months to do that. I think that's okay.

>> Mayor Adler: Any objection to that amendment being put in? Councilmember pool.

>> Pool: I just had a question. The 18 month comes from -- was that a construct that Steve Austin create or based in state law or best practices or -- where did it originate from?

>> That's a city code provision in current code.

>> Pool: And it's been in there for how long?

>> I don't know how long it's been there. As long as I can remember.

>> Pool: How far back do

[4:31:58 PM]

you remember?

>> Mid '80s, let's say that.

>> Pool: I know that councilmember alter is saying she thinks it's okay, but I don't -- I'm not as sanguine. For everybody to cool off whenever there is controversy about a development, the fact you have to wait for a period of time gives everybody a chance to kind of sit back and relax and maybe come at it from a different angle, work with the community to find a better approach. Maybe line up better financing, all of these things could, of course, continue to happen without the requirement of 18 months, but there is something about the 18 months that does give people the opportunity to just kind of sit back and reset. I'm not as "-

>> Mayor Adler: We'll take

[4:32:59 PM]

a vote on that amendment.

>> Pool: I think we should not take that out.

>> Mayor Adler: We'll take a vote on the amendment. Is there a second to the amendment to strike that last clause? Is there a second to that amendment? Councilmember harper-madison seconds. Discussion on the -- striking the last clause? Ready to take a vote? Councilmember kitchen.

>> Kitchen: I just want to confirm with staff, it makes sense reading it that that's what it means, but is that how you would take it? That basically it means that you have to start over, but that you wouldn't be subject to the 18-month waiting period.

>> That's correct. That's how we would read that if that was removed. I do have one question. As proposed, it looks like this amendment pertains to any changes to the boundary where it's a contraction or expansion. I just wanted to clarify if that's the case.

>> Mayor Adler: Is there a

[4:34:00 PM]

difference in your mind?

>> Today someone can propose, they can amend their application and contract the boundary and they don't have to renotify if the area shrinks, but if it expands, they do have to. Typically if a zoning case becomes more intense, it requires renotification.

>> Alter: Is the question about the notification or having to start over again?

>> It's effectively the same. When I say renotify, I mean they have to renotify and go back to commission.

>> Alter: So they are already having to do this if they --

>> If they intensify their zoning.

>> Alter: And so yes, I think you would have to renotify. I mean -- I would certainly leave it up to you if you find that the notification wasn't the -- I think that would be assumed by going back and starting over the process that you would be notifying because the problem that we're dealing with is them changing the

[4:35:01 PM]

boundaries and whatnot moving forward. However, if as you go through it you have examples that suggest that we should come up with some alternative we can consider that, but my inclination would be that it would be the notification but within the confines of this I'm not -- that would be the direction I would need. But if you come up with additional examples, I'm open to having that conversation as you are writing the language.

>> Mayor Adler: Okay. What's in front of us is striking that last clause. Take a vote. Those in favor please raise your hand. Harper-madison, Renteria, Flannigan, Casar, the mayor pro tem, tovo and Ellis. I'm sorry?

>> Alter: I was confused what we were voting for. I will vote for it.

>> Mayor Adler: I think we're New Hampshire. Councilmember pool, I don't know how you are on striking

[4:36:02 PM]

the last clause. How did you vote?

>> Pool: I'm against it.

>> Mayor Adler: Okay, so with that one vote, the others voting aye, the last clause is stricken. That get us back to the base. And I understand from the last clause that as written it applies to either shrinking or expanding the area in the application. That if you change that, it would have to in essence go back to the planning commission potentially.

>> Alter: But this is only changing it for when it's contracting because you already have to do that if you expand it.

>> Mayor Adler: Right.

>> That's correct.

>> Mayor Adler: Further discussion? Those in favor of this please raise your hand. Those opposed? Any abstaining? Harper-madison abstains, the others voting aye, this passes. Gets us to alter 5.  
Councilmember harper-madison

[4:37:04 PM]

pulled this.

>> [Inaudible - no mic on]

>> Mayor Adler: Any discussion on alter 5?

>> Alter: If everyone is fine with that, don't have to have discussion, but if people have issue I would be happy to speak to it. I can't tell beyond harper-madison if there are concerns.

>> Mayor Adler: This is a recurrent issue where people think our code can change deed restrictions, but can't. I'm not sure we need a code to say that, but if we're having a document that puts people on notice to the fact we can't change a deed restriction nor is the city responsible for enforcing deed restrictions because there's uncertainty in the community, I don't have a problem with us making sure 're not implying our

[4:38:04 PM]

zoning restrictions do that.

>> Alter: It's a quirk of the way that the requirement is written that folks are interpreting that if they were talking to someone who is not very knowledgeable that they might think that the code overrides

their deed restrictions and they wanted us to ask staff to look if we could find some ways to clarify so that in those situations where that was the issue, the hoa wouldn't have to enforce the deed restrictions in that kind of situation where it was that way. Mr. Lloyd, did you want to speak to this?

>> There's a general provision of the code that sort of talks about how it interacts with other documents and other obligations the parties have. We think this language that mentions deed restrictions could be easily clarified with just the addition of a few words so we're happy to consider that at third reading.

>> Mayor Adler: It would be happy to dispel the urban myth.

[4:39:04 PM]

I'm in favor of this. Those in favor? Those opposed? Alter 5 passes. That's the end of our document. We have some items that were tabled earlier so we'll recycle back through if anybody wants to urge anything that had been tabled. I think the first one up is tovo -- I don't know if it's tovo 4 or tovo 5.

>> Tovo: So mayor, I distributed three amendments on the dais. One is tovo 5.

>> Mayor Adler: So we're going through this now with items pulled and I think the first one -- that were tabled. I think the first tabled item is at the bottom of page 1, shows it as being tovo 4, but on your amendment sheet it has tovo 5. I'm not sure which one it is.

>> Tovo: Perhaps we could work from the amendment sheets I handed out if that works for you all. Two our items tabled, potentially edited from

[4:40:05 PM]

their drafts.

>> Mayor Adler: Find the other two items.

>> Tovo: I can do my best. We used a slightly older draft and it ended up differently numbered. It's not going to be super easy to get you there.

>> Mayor Adler: Tovo 12.

>> Tovo: The first one I would like to take up is the preservation bonus.

>> Mayor Adler: So the first one -- I'm recognizing you for tovo 4.

>> Tovo: It should say -- so I redirected a sheet that makes some changes from the one I initially handed out. It should be tovo 4, not 5, sorry about that.

>> Mayor Adler: That's okay. I recognize you for tovo 4.

>> Not to add to the confusion, but the little a should be a little B.

>> Tovo: Yes. And it should be house scale preservation incentive and not preservation bonus. Thank you, councilmember Ellis. We have a few adjustments there. The changes I'm making are

[4:41:05 PM]

the ones in red. As we discussed yesterday with staff, there was some language inadvertently dropped I guess between version 1 and 2. So little 2, which hopefully is still little 2, little 2 references that, with the addition of changing private front age to a porch. And little 1 or little one is not a change staff said was deleted. It's just a change.

>> Mayor Adler: Okay.

>> Tovo: So perhaps we could take those up. Differently. So I'd move approval on little 2, which would change -- which would make it clear that we're talking about the front exterior wall, except that a private -- except that a porch, so those are pretty minimal changes. Again, I think they are

[4:42:05 PM]

reflective of the conversation we had with regard to staff. I guess I'll ask Mr. Lloyd if you are the appropriate person. Is that --

>> Mayor Adler: I think when we were considering this yesterday you had said you had left out a word. You had left the fronting word and you were going to come up with language. Did you look at this to see what changes you would make for this? Is this II affect what was your intent?

>> It does. It clarifies what our intent was and the inadvertent -- we inadvertently left out "Front" which has been returned to the text.

>> Mayor Adler: Are you okay with changing private front age to porch?

>> Yes.

>> Mayor Adler: Anybody have any concerns with this amendment, this part of the amendment. The II part of this amendment. Hearing none, that is incorporated into the base motion. Okay, councilmember tovo, I.

>> Tovo: Okay.

[4:43:07 PM]

I'm noticing we now have three councilmembers off the dais. So why don't I lay it out. But would ask if we could wait till councilmembers return.

>> Mayor Adler: We can do that.

>> Tovo: Why don't we take a --

>> Mayor Adler: Let's take a -- 4:43, we're in recess. Let's take a break.

[4:45:27 PM]

>>> >> >>> >> >>> >> >>> >>

[Short break].

[5:04:39 PM]

>> Mayor Adler: It is 5:04. We are on tovo 4. And the question is do we go from having to -- being able to remove 50% of the exterior walls down to 25%? Discussion.

>> Tovo: Mayor, the rationale here is that if what we're trying to do is really preserve most of that existing structure, I think we are better off -- I think we have a much stronger provision if we're saying 75% of it needs to remain.

>> Mayor Adler: Further discussion. Councilmember Casar.

>> Casar: I'm fine with the provision of it being the major majority of it along with some of the other provisions relating to the roof and facade, so I'm fine with the way the staff have

[5:05:40 PM]

worked this.

>> Renteria: I'm also going to support this. I have seen people in my neighborhood just take a house down all the way completely to just the front part of it, the facade on the front. And it was a perfectly good house. But it was just one way for them to be able to -- I would call that almost demolishing the house.

>> Mayor Adler: For me I'm concerned about having the houses being demolished and the situation that councilmember Renteria described I think we need to protect against. So the preservation folks and othersave been working on this now for several months and a lot here recently as this draft came out. We have to balance or try to get preservation, making sure that we prosecutor



[5:06:41 PM]

enough in order to get the -- preserve enough in order to get the benefits of the preservation, but also making the rules not so restrictive to preserve the house because the burden we create is too much. So again, like everything else that we have, if you're interested in preservation, you can have an honest dispute over what's the best way to actually drive the greatest amount of preservation. In this particular case I'm going to oppose the amendment because I think that the staff reached the appropriate balance in trying to make sure that we don't let people do what councilmember Renteria described, but at the same time we will actually have the greatest amount of preservation that actually occurs. I'm going to be voting no. Further discussion on this item? Councilmember kitchen.

>> Kitchen: I'd like to ask the staff about this provision. So I remember in our conversations in front of the work session that this

[5:07:41 PM]

whole concept is new and we don't really have the opportunity to look at other places, if I'm remembering correctly. So it's not really been tested. Is that what I understand? Everybody is just taking their best approach to it at this point. Am I remembering correctly?

>> That's correct.

>> Kitchen: So mayor, with that in mind I would much rather err on the side of being conservative when we approach this because we're already losing so many houses. So if we make this too loose we're going to lose even more houses. It's much easier, I think, -- we have the opportunity if we find that the 25% just is not working then we can adjust it. But I'm really concerned about the 50%. And I think we would do much better to start with the 25%

[5:08:42 PM]

at least. So I am going to support this. And as councilmember Renteria said, this is a fundamental problem for our central city for a lot of our neighborhoods because we're losing -- we're losing more affordable homes and what's being replaced with larger single-family homes that are really expensive. And it's just -- we're not going to have much left soon. We're already behind the curve in terms of the market and we can only do so much in terms of the market, but we need to do the best job we possibly can with this right now. There's too much risk.

>> Mayor Adler: Okay. Any further conversation on this?

>> Tovo: And just to be clear to those who are watching, in the lowest residential category where you're currently allowed under the proposal to have two units, you would get an additional unit through this

[5:09:44 PM]

preservation bonus. So I think it is entirely appropriate to make sure that there's a threshold of a -- a high threshold for achieving that if what we want to do is see those existing structures preserved because they're going to be more affordable and more accessible than new construction then I believe we need stronger provisions. So that's the intent. But I do want to be sure it works as a plus one in other categories, but in what are currently sf 2 and sf 3 properties or going to r2, this would actually allow you 50% more units on tract.

>> Mayor Adler: Okay. Any further discussion? Let's take a vote then on tovo 4 part bi. Those in favor please rise your hand. Renteria, kitchen, alter, pool, tovo. Those opposed raise your hand? The balance of the dais. It does not pass.

[5:10:48 PM]

>> Mayor Adler: Okay. The next tabled item was on 2 of 19.

>> Tovo: Mayor, can I take up the transition area one --

>> Mayor Adler: Not yet. We'll take these in order and it's a tranche 2 one --

>> Tovo: Since the last two were both mine I thought we would take the easier one first.

>> Mayor Adler: I've handed out an amendment to

-a. This was to take care of the tract home situation. I don't know if anybody needs another copy of it.

>> Tovo: Did you distribute it just now or yesterday?

>> Mayor Adler: No, it was posted -- I think it must have been one of the first things to actually get posted. It was posted on the board. Basically says lots with new residential house scale subdivisions of 10 lots or more in undeveloped, meaning green field areas outside of activity centers and transition areas, allow a base standard F.A.R. Of .6 and a maximum allowed impervious cover of 45%.

[5:11:49 PM]

Currently proposed requirements including drainage, water quality, parkland dedication, etcetera, should continue to apply. So in working through lots of different people who were on this, this was to

help with tract homes. These are the homes being built in our community and, moderate size home but on small lots. I'm trying to make it so that product doesn't have to be built outside of our city. It makes people go farther away. Right now the F.A.R., any situations is unlimited. We moved it down to .6 so that there would be an F.A.R. Maximum. And made clear that it doesn't trump activity centers or transition areas. There's a 45% impervious cover, but it's only green field, so staff indicated that because of the green field requirements for multi-lot subdivisions that

[5:12:49 PM]

on green field that the protections are provided. And I want to make sure that it was clear since the question had been asked that it doesn't trump any of our drainage water parkland dedication. Those things continue to apply. Staff, is this -- what do you think about this? Is this the right number it should be 10 or more lots? That was a number I wasn't sure about.

>> And diarrhea bates Andrea benefits with the watershed department. We thought it should be consistent given that lot sizes vary. Depending on council's goals you would consider a minimum of two acres or more. I could also speak to the potential impervious cover impacts of allowing some green field subdivisions to go to 45 rather than the

[5:13:50 PM]

previously proposed 40 if that's of interest.

>> Mayor Adler: Would you speak to that?

>> We modeled the impervious cover impacts of the graduated impervious cover proposal in this draft. And found that the 40% limit for new one unit development does help the council direction to minimize increases in impervious cover citywide and by watershed. So when we reran the analysis we estimated how many units would be developed on lots in particular Zones because the impervious cover maximum is now unit based as currently proposed. And the analysis showed that this proposal would pflugerville a small decrease in maximum allowable impervious cover citywide as currently written. The October 4th draft had a small increase compared to current code with the graduated proposal it would be a small decrease. If green field subdivisions go to 45% for one unit development instead of 40, some of that decrease is eliminated and we would be

[5:14:51 PM]

key looking at basically no change from current code. So not a big impact one way or the other on impervious cover citywide. We would not be concerned about watershed impacts of those impervious cover changes. But just to let you know what the initial analysis shows.

>> Mayor Adler: You would recommend two acres rather than 10 units. Without objection I would make that change to make it two acres. For one that change is made. Further discussion? Yes. Councilmember alter.

>> Alter: Yes. I appreciate you adding that the currently proposed requirements would stay the same. Mayor, you mentioned this would be allowing for modest homes on smaller lots so our minimum lot size is 5,000. This is a .6 F.A.R. What are we seeing built with these subdivisions that is considered a modest home.

[5:15:52 PM]

>> I think they have been averaging a development -- I think the average size has been about a .53 F.A.R. I think is what I heard. That's why I came up to the .6.

>> Alter: On what size lot?

>> Mayor Adler: They're tract homes, so relatively small. I'm not sure the answer to that. I'll see if I can get that for you.

>> Alter: So I'm going to abstain on this. I'm not sure this is a problem that I need to be solving for on a 5,000 square foot lot. .6 is 3,000 square foot house. And I just am uncomfortable with once again incentivizing larger houses throughout the city.

>> Mayor Adler: Okay. Further discussion? Then let's take -- councilmember kitchen.

>> Kitchen: So I'm trying to understand where these are. I know I have some green field area in district 5, but what are you thinking

[5:16:52 PM]

of? And when you say outside of activity centers, do you mean adjacent to or do you just mean that they're not in an activity center?

>> Not in one. I don't want this to trump the rules we're providing in activity centers to create more urbanized areas. I want to make it clear that this was subordinate to that policy direction.

>> Kitchen: So I think -- how does this relate to -- okay. So you have the drainage, water quality. What does etcetera mean? All -- do you mean all currently proposed requirements continue to apply?

>> Mayor Adler: Yes, other than the ones that are shown --

>> Kitchen: Other than F.A.R. And impervious cover?

>> Mayor Adler: Yes.

>> Kitchen: Okay. So I'm trying to understand if there's -- so they would control in other words.

>> Mayor Adler: Yes.

>> Kitchen: So if there's a different impervious cover that is in a requirement, it would control over the 45%?

[5:17:57 PM]

>> Mayor Adler: All another non-zoning requirements, every one.

>> Kitchen: All other non-zoning requirements. I think that needs to be specified. I'm also concerned about the 45%. I assume you mean in areas that are not in the recharge zone. Or that are not impacted by S.O.S.?

>> Mayor Adler: Yes, clearly not that.

>> Kitchen: Then we need to add some language to that effect.

>> Mayor Adler: Okay. So currently proposed required non-zoning requirements, including S.O.S., drainage water quality parkland dedication and by etcetera, I didn't want it to be limited to that. I wanted to make sure we weren't trumping any of the other non-zoning requirements we had.

>> Kitchen: I think it might be clearer if you said all currently non-zoning requirements.

>> Mayor Adler: Okay.

[5:18:58 PM]

>> Kitchen: So I have another question. How are we defining undeveloped and green field in this circumstance?

>> Mayor Adler: Staff.

>> Kitchen: I'm asking because I have an upcoming zoning case. Actually, we did it on first reading already, the messenger tract, that is an undeveloped area. And we're going through a zoning process and I'm not sure -- I can't remember, but I don't know if we would put .64 on that. But I don't know which properties this applies to.

>> Councilmember kitchen, I think that is an issue that we flag in our internal discussions and it's one that we would need to do some work to nail down where -- but it's going to take a little bit of work.

>> Kitchen: Okay. So mayor, what are you intending in terms of green field, when you say green field areas?

>> Mayor Adler: The ones that have the strengthened

[5:19:59 PM]

water quality protections built into development.

>> Kitchen: I'm sorry, I didn't understand that.

>> Mayor Adler: The ones that have the enhanced water quality protections built into them.

>> Kitchen: Okay. So only those parts of the city?

>> Mayor Adler: Those green field requirements, where those are required on green field requirements.

>> And they're not in centers.

>> Mayor Adler: And they're not in centers and they don't trump all other non-zoning, including but not limited to S.O.S.

>> Kitchen: Perhaps I'm not as familiar with those because I'm not understanding where those are. So is there a map or anything?

>> I don't have a map, but it's where the on -- basically tract home builders.

>> Staff has interpreted it to mean undeveloped, just a vacant undeveloped area and then the additional regulatory protections that were added would apply as well. The drainage S.O.S., water quality and parkland, but

[5:21:00 PM]

green field is basically synonymous with just an undeveloped site.

>> Kitchen: I don't think I can support this right now because I'm trying to think of the application. There's a lot of places around the city. I mean, in my district, for example, to the south there's a number of undeveloped areas. There's a messenger tract area as an example that's really in the middle of a neighborhood, but it's a huge area. It's one of those southern neighborhoods. And I don't think that we can blanket say that all of those areas should be a F.A.R. Of a .6 or at least a 45% impervious cover because we don't know all the circumstances at this point. So I'm going to have to not support it at this point.

[5:22:02 PM]

I think -- I assume you're trying to tell me more what you're trying to achieve, I can make an assumption, but tell me what you're trying to achieve?

>> Mayor Adler: What we're really going after is the developments that only have a few hundred homes, like whisper valley or eastonpark that are developing in our community so they can continue to develop the product they're building right now. Which because if -- they would not be able to build and they would be forced then to go outside our city limits. I understand that the product that the building right now is averaging about a .53 F.A.R. As they build that size home on these small lots. These are not huge homes being built in whisper valley and eastern park. It's tract homes. And that's what I was trying to provide for.

>> Kitchen: I think it would be helpful if it was more narrowly tailored. If the staff is understanding -- the term is pretty broad in all undeveloped areas.

>> Councilmember kitchen, additionally the two acre

[5:23:04 PM]

limitation also will help guide us as a two-acre undeveloped or vacant land restrictive covenants the application more narrowly within the city.

>> Kitchen: I guess I'm not saying where it says two acres.

>> Previously it said 10 lots or more and staff had recommended two acres or more. And mayor Adler had accepted that amendment.

>> Kitchen: Okay, I'm sorry, I didn't hear that.

>> Mayor Adler: That's okay. It's the first thing we did.

>> Kitchen: I still have concerns because I think this requires a little more understanding of where we're talking about. So I'm not going to be able to support it at this time.

>> Mayor Adler: I understand. Councilmember pool.

>> Pool: Would this apply at Robinson ranch?

>> Robinson ranch is a pud so I don't think that it applies.

>> Mayor Adler: Staff confirms that.

>> Pool: Is all of Robinson ranch a pud?

>> Yeah.

>> Pool: There's land that

[5:24:04 PM]

has not yet been sold, is that right?

>> I believe all of Robinson ranch is a pud.

>> Mayor Adler: Yep.

>> Pool: Okay. That's good. I guess. The .53 or the .6 F.A.R. On two acres. So if you break the two acres down to our minimum lot size, is this using the 5,000 square foot minimum lot size in your mind?

>> Mayor Adler: I'm sorry? I'm -- you were saying these are small homes, small tract homes and so I was trying to get a sense if it's on -- it depends on the size of the lot how big the house is going to be, right? So I was trying to get a sense of how --

>> Mayor Adler: I'm not sure what the lot size are in those subdivisions now. I know that under existing code right now, the F.A.R.

[5:25:07 PM]

Is 1.2. So that's what's currently happening in our community right now. Of course, they're not building to 1.2 because that's not what the tract homes are doing.

>> Pool: So where are those?

>> Mayor Adler: So Easton park would be an example, whisper valley would be an example. Whisper valley is east of town, Easton park is kind of southeast.

>> Pool: They were built to 1.2 F.A.R.?

>> Mayor Adler: No, that's the allowed F.A.R. Now. So this is having the allowed F.A.R. For that kind of development. Which I think they should be able to live in because the average, as I understand, is about .53.

>> Pool: I just was getting in my thought process of understanding where this was going on a 5,000 square foot lot, which was our new minimum standard, that .5 or .6 F.A.R. Would be about a 25 square foot to 3,000 square foot house. So I just wanted to point out I'm not sure that is small, I'm not sure it's modest. Now, it might be inexpensive

[5:26:09 PM]

depending on how far it might be from downtown, for example, or the materials that are used to build the house, but it's not a small house.



>> Mayor Adler: Yes.

>> Pool: Okay. So I wanted -- I wanted to affirm that we're not talking about small homes here. And so I understand where you're going with this. It's certainly an improvement over the 1.2 F.A.R., although that is not being maxed out from what you're telling me, but it makes me think that there needs to be additional refinement on the various different calculations and calibrations to make sure that we are not once again incentivizing larger homes, 2500 square feet to 3,000 square feet, is pretty big. So I would like to have some additional conversation about this piece. Could we maybe bring it back at third reading to have it fleshed out a little bit more so we could see where on a map these might occur and where they have occurred

[5:27:09 PM]

and how they haven't been maxed out and where we might be able to pull in and get a better sense of how this would -- the ground

[indiscernible] Of these calculations.

>> Mayor Adler: I'm going to ask for the vote on it now, but either way I would be happy to continue working on this as we go to third reading.

>> Pool: That would be great. I would like to see what it would look like and I do have some precincts in the northern part of my district that are close to Robinson ranch and some green field stuff. So if there's opportunities for this, that's great. So yes, thank you, I would like to work with you on that.

>> Mayor Adler: And generally we're talking about 2200 square foot homes on the lot.

>> Pool: That's big. On a 40-foot lot. Because 50 feet is our minimum frontage, is that right? Staff.

>> At this time our standard minimum width is 45 to 50. Depending on the zone.

[5:28:11 PM]

And use.

>> Pool: So these are being built on 40-foot lots?

>> Mayor Adler: That's what I had been told. I could be wrong.

>> Pool: Okay. Now I really don't understand. How this is all working together.

>> By that they're not really wide lots, big lots in these tract home subdivisions.

>> Pool: But our minimum --

>> Mayor Adler: It would certainly comply with whatever the minimum lot requirement is for those subdivisions.

>> Pool: Staff is telling me it's about 50 feet, which is my understanding.

>> Sorry, a correction. In r2 C, which is the equivalent zone to sf 4-a, it's a 35-foot minimum width, so 40-foot would be allowable.

>> Pool: Thank you, appreciate that.

>> Mayor Adler: Okay. Councilmember alter.

>> Alter: I have two other questions for clarification while we're talking about the green field. So this is essentially

[5:29:12 PM]

putting more single-family in the green fields. Now, does this happen automatically with the mapping or this creates the opportunity if someone buys that property and that's what they want to do? Because there maybe certain places where we wanted to have apartments that would house more people. I'm just curious how that works together and are we -- I'm all for having a tool for them to do this but I'm just wondering if we're tipping the scales for the single-family over duplexes or over missing middle and residential in those same areas? And I don't know where these are, so I don't know what would be referred. I was just trying to understand the trade-offs that we may be creating.

>> Councilmember, I think that's something that is up to council. We could certainly take direction on whether to map something now or simply have it in the code for future

[5:30:12 PM]

use.

>> Pool: I would be a lot more comfortable having it in the code as a tool, which I think there would be some situations. I just blanketly saying to map it everywhere there's the green field without knowing where that green field is, I'm uncomfortable with that. I don't know if there's something that we could do that would allow us to square that.

>> Mayor Adler: And without seeing it, without knowing it, that's where we're going back to staff. The amendment reads for consideration on third reading asking staff to propose appropriate text and/or map revisions to achieve these objectives, which is basically the tract home development. So they would come back before third reading and say this is what this would look like.

>> Alter: And that doesn't obligate them to map if if they think we have the tool and the zone without necessarily mapping it.

>> Mayor Adler: Nor is it that we have to approve it.

>> Alter: And we talked

[5:31:12 PM]

about how we had 200 acres of green field in activity centers and that has not necessarily been zoned as per the direction in December. Can you please tell me what the plan is for those properties? Because -- I know this is not in activity centers, but I would like to understand what the plan is.

>> Can you repeat the question?

>> Alter: So in work session we were trying to understand how the direction related to prioritizing mapping around activity centers so that we could follow our comprehensive plan. That was the direction that was provided in December and was to prioritize that but in looking at the mapping through our conversations over how it was mapped in draft 2, the part of the direction that dealt with green fields was not followed, it was not mapped. And in the document it says we're going to work on that

[5:32:14 PM]

for third reading and I'm just asking for more clarity of that process for how that green field that's in activity centers is going to be mapped because I wouldn't want us to be mapping undeveloped activity center spaces for single-family.

>> We're still working through that. We identified at work session the breakout of the properties in the centers per that direction. And that was where we were at that point at work session and we're still working through what the criteria should be to address the centers per that. And we can certainly circle back through the council portal once we have some developed criteria. Soon.

>> Alter: Because there are about 200 acres there that would be good places to have higher density than single-family. Thank you.

>> Mayor Adler: Okay. Let's take a vote. Councilmember tovo.

>> Tovo: I'm just trying to get some context for this amendment. Is this something that the

[5:33:16 PM]

planning commission recommended? Was it considered at any point earlier in the process? I'm just not sure where and how it -- whether any other boards have considered it or how we -- how it came to be suggested?

>> Mayor Adler: I'm not sure whether any other boards have considered it.

>> Tovo: So it wasn't part of the planning commission recommendations and not something that staff recommended? >>

>> Mayor Adler: Not that I'm aware of.

>> Tovo: Thanks.

>> Mayor Adler: It's really designed to address the tract home issue and I'm asking staff to come back and tell us how it would be appropriately mapped and what the appropriate text might be.

>> Tovo: I'm going to abstain for today because I'm just not able to manage all this information here today, but I -- some of the builders building tract homes are also building in the city limits, so I'm just -- even after this conversation I'm not clear what the problem is this is attempting to solve.

>> Mayor Adler: The lot that I just described to

[5:34:17 PM]

you, the 40-foot lot with the 2200 square foot home which is the product in some subdivisions are being built today because the allowable approximate F.A.R. is 1.2. We have a reducing -- we are reducing the F.A.R. Generally in the city by other things that we're doing, and that indicates that if we pass that then that kind of housing product won't be able to be built in the city limits anymore. It's currently being built that way. So what would happen then is those developers, those tract homes, those people that are supplying those kinds of homes for people that want to live in the city, would then have to move outside of the city. And I'm asking the staff to come back for third reading and tell us what appropriate text or map changes revisions might be to address that. But I think the issues have been laid out. Let's go ahead and vote. Those in favor of this amendment with the changes to two acres from 10 with the addition of all other non-zoning and putting there including but not limited to

[5:35:18 PM]

S.O.S. And then these other things. Those in favor please raise your hand? Those opposed? Kitchen votes no. Those abstaining? Alter, pool and tovo abstain. The others voting aye. This passes. Okay. Then I think the next tabled one is it -- is it Casar 2? Was that tabled? Was Casar 2 passed? If you have a list of these -- what? It was tabled, but then we came back and passed it. So Casar 2 was passed. That then gets us to the next one, which I think is tovo 12.

>> Tovo: Yeah, as I indicated I made some edits to it so I prefer taking it up with my other amendment and do one and then the

[5:36:20 PM]

other. I'm happy to consider them in the second batch.

>> Mayor Adler: Let's consider that in the second batch. We'll come back to that. Then the next tabled one that I see is it Flannigan 15? I think.

>> Flannigan: I'm going to withdraw 15.

>> Mayor Adler: Withdrawing 15. So that one is withdrawn. Did we table pool 3? Pool 3 is on nine of 19. Trying to figure out what happened here. You withdrew it per the staff?

>> Pool: I withdrew three and four to work with staff.

[5:37:21 PM]

>> Mayor Adler: That's right, thank you.

>> Mayor Adler: Okay. That means then what about about -- what happened to tovo 3? Was that -- what? Tabled. It failed. Tovo 3 did not pass. I think that gets us to tovo 14. Do you want to consider that later? Councilmember tovo?

>> Tovo: That's one of the ones that I edited. I have replaced it with something I've distributed. That's phase II. I have two amendments left, both phase II.

>> Mayor Adler: So we're not going to consider these now. You want them considered later.

>> Tovo: Whenever. I'm happy to do that one

[5:38:23 PM]

now. That is the one transition areas r4 rm1. And so as I understand where we are currently, with the equity overlay change that was passed on first reading, that removed the ability for a developer of an rm1 product to apply for a fee-in-lieu. So that tenth unit has to be on-site. And this amendment would make that actionable -- would apply that same provision to high opportunity areas as well, which I think is appropriate. I think there's great value in having that tenth unit be on site and I would suggest that we keep it consistent whether in the equity overlay or in high opportunity areas that that unit be actually built there rather than a fee-in-lieu. And I think it's especially important in high opportunity areas where we're really trying to encourage affordable opportunities.

>> Renteria: Mayor, what page is this on?

>> Mayor Adler: Tovo 14 is

[5:39:24 PM]

on page 12 of 19.

>> Renteria: Thank you.

>> Tovo: It was -- councilmember Renteria, I just distributed -- I distributed three different amendments on the dais. It's a little different than what was the original one that talked about capability capability.

>> Mayor Adler: Which one is this?

>> Tovo: This is the one that's very short and I distributed it a little while ago. And it's called -- it's headed -- its Reddings is transition areas, r4, rm1.

>> And that was tovo 14.

>> Tovo: Sort, yes.

>> Mayor Adler: Okay. Councilmember tovo -- it's not the revised one. It's not tovo 12, it's the other one. It's the one that is headed transition areas r4 rm1.

[5:40:38 PM]

Tovo 12 is a different one. This is not tovo 12. It is the other one that says housing affordability in transition areas. Transition area r4 rm1 as shown on the board. Yes, mayor pro tem.

>> Garza: This might be a question for Ms. Leak. My question is I like the idea, I'm just curious if there's another example that you wouldn't get the affordable on-site. They would juts prefer to build less. Recommendation on this, if there is one?

>> So this is obviously a policy issue. The thing that I have said previously is it is always more resource intensive to manage single affordable

[5:41:40 PM]

units. And I know that there is another provision to partner with other entities to monitor them, but it does still require staff time.

>> Garza: So we don't have a current program for this kind of -- how does it play out in the equity overlay where it's required?

>> So that would be the provision where the people who develop it have to basically have someone -- they would have to partner with someone or pay someone probably to find tenants and help with monitoring of those units.

>> Garza: Okay.

>> Okay. Casar.

>> Casar: The way I see it with the equity requirements and leave the requirements

[5:42:40 PM]

in the high opportunity areas the way they are in the second draft is we get fees from multiple of these folks going into the bonuses. We use those fees to really make sure that we shore up affordable units in the gentrifying areas and then sort of accumulate the fees from the other developments to help make sure we get on site in the high opportunity areas. So I really would want to prioritize getting them on site in gentrifying areas because I think it's priority number one. And then I think getting some fee-in-lieus in some of these rm1 projects would be useful in getting those units. And then priority number two, the high opportunity areas. So I think we've got to have that mix of on-site requirements and fees and I think that that's why I think the current equity overlay makes sense getting them on-site in the gentrifying areas, picking up fees in the high opportunity ones.

>> Mayor Adler: Councilmember tovo.

>> Tovo: I want to return to the question asked of

[5:43:41 PM]

you, Ms. Leak. Once we pass the equity overlay requiring that tenth unit be on site, staff will have to come up with a mechanism for that monitoring. So we've already tasked staff with that and we've suggested some ways that a non-profit could partner. I -- I would not and cannot understand the rationale for requiring units on site only in the equity overlay when what we're talking about again and again and again is trying to provide affordable units within high opportunity areas. And yes, we can use fees towards that and I certainly hope we will since mostly -- most of them, r4 density bonus doesn't require any on-site units. Rm1 doesn't require any on-site units from seven to nine. So when we had this conversation last -- on first reading, I thought I heard some indication from

[5:44:42 PM]

several of you that you would be willing to extend this to or maybe it was in work session that you would be willing to extend this to high opportunity areas. And again, I think we really need to be able to explain to the community why, why we wouldn't want an on-site unit in a high opportunity area. I don't think the fees -- I think it is a much better value to have that unit built on-site than to try to take the fees and put them into a different project.

>> Mayor Adler: Okay. I'm not going to support this amendment for the same reasons that councilmember Casar gave N this instance I like housing to have flexibility to maximize the policy goals we have. Further discussion on this? Councilmember alter.

>> Alter: I'm going to support this amendment, but I do want to point out that if we look at the affordable capacity of what we're getting from rm1, in the non-equity areas just

[5:45:42 PM]

roughly saying what we're getting outside of districts 1 through 4, we are getting nine units of affordable housing from all of the rm1 in district 6 through 10 combined and nine in district 5.

>> Mayor Adler: Okay. Let's take a vote. Tovo 14. Those in favor of tovo 14 please raise your hand. Kitchen, alter, pool, Garza, mayor pro tem and tovo. Those opposed raise your hand? It's the balance of the dais. It does not pass.

>> Tovo: Mayor, I intend to bring this back again and I would just really ask my colleagues to consider this. We talk all the time about trustee gharakhanian to create housing for all types of people for all parts of town. I don't know how we do that in fees in lieu. The market is not going to produce affordable units in high opportunity areas without requirements. And subsidies. And so we have an opportunity to do this. That's a very surprising vote to me and I'm very

[5:46:44 PM]

disappointed.

>> Mayor Adler: Okay. The next item that -- next tabled item. Are those all of the tabled items? Which number?

>> Councilmember kitchen, did you withdraw or table your amendment 8 rezoning school properties in parkland?

>> Kitchen: I withdrew it.

>> Pool: And you also withdrew 9.

>> Yes.



>> Mayor Adler: I think those are the ones we have.

[5:47:46 PM]

It's 5:50. Let's take an inventory of the new amendments that we have left and then let's take a break for dinner. If anybody has any other amendments they want to bring, please make sure you post them so that people have a chance to see them. But let's do an inventory of what we have and make sure that we all have --

>> Kitchen: Mayor, it might be helpful after you do that to lay out the rest of the things that we need to do this evening.

>> Mayor Adler: Okay. So before we do that, first I'm looking at harper-madison 13 which looks to be graduated F.A.R. In missing middle Zones. I also have harper-madison 14. Is there a 14? Amended plats.

[5:48:47 PM]

You're still bringing 14. So harper-madison is entitled amends plats. Then I have harper-madison 15, which is preexisting conditions. I have harper-madison 16 which is r2-c mapping. All right. Councilmember Casar has item number --

>> Kitchen: Mayor, I'm sorry. 16, is that in the packet or did you pass something else out for that?

>> Mayor Adler: Did you see this page here?

>> Kitchen: That's 13.

>> Mayor Adler: But look at the back.

>> Kitchen: Okay, got it.

>> Mayor Adler: On the back is 15 and 16. Councilmember Casar which is internal suite. And we have tovo 12. What?

[5:49:48 PM]

>> Kitchen: Did you pass it out?

>> Casar: No, I will -- I could print it if you would like. We posted it on Monday.

>> Kitchen: It would help if you could print it.

>> Mayor Adler: Posted it on Monday. If you would bring copies of it with you.

>> Tovo: Mayor, if I could clarify, I thought I saw one from councilmember harper-madison about that.

>> Casar: No, it was just mine. It was posted on Monday.

>> Mayor Adler: On internal suites?

>> Casar: I think internal suite was only posted by me.

>> Mayor Adler: So what I have is harper-madison 13, 14, 15 and 16. And we have Casar 10 and tovo 12. That's all that I have. Anybody want anything else considered? Am I missing anything?

>> Kitchen: I just have some questions for staff, but I think that I can ask them as part of the presentation they're going to give us or briefing they're going to give us -- it's probably too big a word, conversation we're going to have with them about the next steps with

[5:50:52 PM]

regard to the -- between second and third and handling the planning and also how we're going to handle the submission that we received from neighborhoods.

>> Mayor Adler: And then I think at that point having considered those then we're ready to take a vote on the three items in front of us.

>> Kitchen: We still have to talk about those. We haven't talked about all three items yet.

>> Mayor Adler: Okay. We'll call them up and talk about them.

>> Tovo: Mayor, sorry, before we break, I just wanted to clarify, councilmember harper-madison's amendment. So we have 13, 14, 15 and 16. Just distributed were 13 and 15. Those would be updates. We just got a 16?

>> Mayor Adler: On the back of 13 that was handed out you will see 15 and 16.

>> Tovo: Ah. Okay. Thank you.

>> Mayor Adler: 14 was the amended plats one. And then I have Casar 16,

[5:51:53 PM]

internal suite, and I have tovo 12, which is the two --

>> Tovo: I have Casar 10.

>> Mayor Adler: That's what I meant, sorry.

>> Tovo: So these are councilmember harper-madison's four, Casar 10 on the message board not yet distributed, my 12 distributed.

>> Mayor Adler: Correct.

>> Tovo: Thanks.

>> Mayor Adler: And then we will also then take votes and discuss items 1, 2, three. We'll call them each separately and take votes on them. Okay?

>> Kitchen: So mayor, what order do you want to take things in in terms of having our staff talk to us about the process going forward?

>> Mayor Adler: I would suggest that we take the vote on the land development code since we've gone through all the amendments. We'll pass the base motion on that.

>> Kitchen: I guess I should have stated my preference. I need to understand the process going forward.

>> Mayor Adler: Help me better understand what you're trying to achieve.

>> Kitchen: Well, we promised that -- we promised

[5:52:54 PM]

the -- back in the fall we promised the neighborhoods that we would listen to and take up what they had submitted. It's still hanging out there what that process will be. So I just want to have that conversation. I don't think it has to be a long conversation, but I just want to lay out we've promised people we're going to answer that question.

>> Mayor Adler: So I think we need to address in the context of your opening conversation about how we're going to be handling map changes and the different kinds of map changes and the different kind of map change processes that you anticipate or envision us having based in part of what we're able to do and not able to do as part of the comprehensive plan. But looking at what we're going to do in following that up. I think we need to have that conversation.

>> Would you want that soon after the break to start again or when are you suggesting?

>> Kitchen: I'd like to have it before we vote.

>> Mayor Adler: Maybe take us through that so we have that update and then we'll vote on the land development code and then we'll vote on

[5:53:55 PM]

the other two.

>> Kitchen: We have to talk on the other two and then vote.

>> Mayor Adler: Promise he'll talk before we vote.

>> Kitchen: I mean we have questions and stuff.

>> Mayor Adler: Councilmember alter.

>> Alter: So yesterday we requested two data pieces and as far as I can tell we got one of them, thank you, which was the placement percentage for the rm1 and r4 as mapped in different districts, which was kind of interesting information. That's how posted in the Q and a. But we had also asked for the capacity that you would lose if you just went back to two units off. And I don't know if that was really available today or not, but I haven't seen that. I was just wondering since we would be voting on tovo 12.

>> Yeah, we do have that available and Laura can explain the numbers behind that.

>> Laura Keating, planning and zoning. We looked at just kind of a buffering to proximate two

[5:54:56 PM]

lots off the transition areas that are mapped under the January 31st map. And if you reduced to two lots, which is about 300 feet of transition area, you would see a reduction in about 400 housing capacity units and housing capacity.

>> Mayor Adler: Councilmember tovo.

>> Tovo: So we would lose 400 units citywide by reducing down to two?

>> Yeah. And those transition areas are producing about 4,000 units under the map.

>> Mayor Adler: Okay.

--

>> Alter: Is there a way to see that in writing so we can think about that a little? That's interesting information.

>> Yes, we can post that on the council portal during the break.

>> Alter: That was 300 feet so it's not going

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to address a lot of certain issues. How many properties less would be zoned missing middle or transition zone the way you did that?

>> I don't have that figure. And so the quickest way for us to do it is to look at the existing capacity map and do a buffer if we were going to -- so I don't have the number of reduced properties.

>> Alter: Without sort of seeing it I can't visually -- it's hard to know how many properties would be impacted by that so we said we had a capacity of 4,000 out of our 400 that was coming from the transition Zones that are mapped missing middle. And now if we go back we just lose about 400, but I need to understand how many properties are taken off with that as well.

>> We can look at that and see how long it would take to calculate that, but also to be clear, you know, the estimate around 400 is per

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the criteria that we have been using this entire time, assuming that we just applied two lots. And so it's the same criteria that's been discussed at work session and that's been on the blog and all that, just to be clear for the public as well, that it's the same methodology. We're trying to be comparable as we answer the question.

>> Alter: But then in areas say where we had a residential corridor that went to five or six lots in, that moving from draft one to draft two we went in one lot. If it was six lots it would have gone to five lots in this draft and now it would go to two lots.

>> That's correct.

>> Alter: So for some of those that could be a lot. For some of those that are parallel it's not going to -- if we're going to use the distance it's not going to help a lot. It would be helpful to know how many properties we're talking about not being in -- not being rezoned that

[5:57:59 PM]

way.

>> Mayor Adler: Okay, thank you. All right. Colleagues, it is 6:00 almost -- councilmember tovo.

>> Tovo: May I ask one more question to be thought about during the break. Yesterday or maybe it was two days ago we had a speaker who -- Barbara Macarthur who calculated -- provided us with her estimate of how many properties had been rezoned. And I'm not sure I can capture exactly what that number was, but it was well over 900,000. And so it would be helpful to know whether staff agree that that number is in the ballpark of the number of properties that have been rezoned. If that's something that you have the ability to answer after dinner, that would be great.

>> Just to clarify what do you mean by have been rezoned, have been zoned from single-family to a transition zone?

>> Tovo: I believe that was the figure, but maybe one of my colleagues can add to that detail.

[5:59:00 PM]

I'll look back at my notes.

>> Did she have a presentation or handout, councilmember tovo?

>> Tovo: Well, it seems like it's been four weeks since I heard her presentation. I'm not --

>> We'll try to look at it over the break.

>> Tovo: I think she did have something she showed on the overhead. I'm not sure that she sent it to anybody. I believe in her presentation she had it.

>> Pool: Mayor?

>> Mayor Adler: Yes, councilmember pool.

>> Pool: Ms. Macarthur had been working with you, Ms. Beaudet on trying to get the shape files in order to get a comparison of parcel to parcel in order to fine tune the numbers and capacity. I know that you and she have had direct communication, as I've been copied on that. So to the extent that you are able to continue to provide the accurate and updated shape files I think the city manager was also helpful in this matter. Then we can in fact get to an agreement on the number

[6:00:02 PM]

of affordable units for the additional capacity, but the numbers that she did bring to us were just shy of a million. So I think it really does need to be refined and made sure if she's made some errors then I'm sure she is the scientist and physicist that she is, she would appreciate having that conversation. But we have been trying some time to get to what the max capacity is in our city based on how many parcels she's had so she's taken a stab at it. From what I can gather she's done a pretty good job. I think it would be good to have her have that conversation with you I think it would be good for her to have that conversation with you all to be sure how she came up with her numbers compared to yours. That's really important.

>> Mayor?

>> Mayor Adler: Mr. Flannigan hasn't had a chance to talk yet.

>> Flannigan: We have had this conversation about max capacity research, I believe we had this conversation several times at

[6:01:03 PM]

work session and my recollection is that staff said it was a lot of resources for a number that did not result in a reasonable data point to make decisions, so I don't think that we're asking staff to do that now.

>> Kitchen: Mayor?

>> Mayor Adler: Yes. Councilmember kitchen.

>> Kitchen: When we talk about the -- and thank you very much, I know it was a quick ask on the units that you've identified, and you said about 400. I think when we have that conversation, we should also do it in light of the citywide breakdown that you all provided to us of the property count by the zoning categories that were not counted towards capacity. And everyone has that information. It was posted, and that's the r3, r2a, r2a, r2c, r1 and rr. And the total of those is 166,349 properties that were not included in our -- in our capacity

[6:02:04 PM]

analysis. Most of those were r2a and r2b, and so I think that we should understand that and take that into account, to the extent that we are talking about -- about numbers. And that information is available. I'll make copies for everybody in case we need to refer to it.

>> Mayor Adler: Okay. All right. 6:00. Let's come back at 7:00. And with that, this meeting is in recess.

[7:17:12 PM]

>> Mayor Adler: We're going to reconvene this special called meeting here at city council. I think at this point we are into kind of the second tranche. Kathie, do you want to consider yours now or at the end of the others? Happy to do it when? At the end. Okay. So that then gets us to the harper-madison 13, 14, 15, 16. Casar 10 and tovo 12 I think is the order. Let's begin with harper-madison 13. Your mine is not on.

[7:18:17 PM]

-- Your microphone is not on.

>> Harper-madison: So you guys received some information that I passed out about item 13. At this point I'm waiting for whoever pulled it to ask whatever questions are necessary?

>> I don't know if I was the one to pull it, but I do have a question for staff. So I understand that this starts at the duplex level for the F.A.R. That was passed yesterday. And first and first of all, this applies

to which zone? The first one is r4 and the second one is rm1, is that correct, in the tables? Are you looking at the long form?

>> Alter: I was looking at the amendment.

[7:19:19 PM]

>> Harper-madison: For item 15.

>> Alter: I was looking at 13 and that's two charts. Is that the wrong thing.

>> Harper-madison: That's the wrong thing.

>> Alter: The first is for r4 and the second for rm1.

>> That's correct.

>> Alter: And this starts from the amendment that was passed before yesterday on the duplex increasing to .5? Then graduates it when it increases the highest F.A.R. By another zone, .7, is that correct? So those are all areas that have a bonus and I know you're giving an additional it's beginning an additional not .1, but additional one for the F.A.R. For the bonus. I don't have down in my notes what was originally in there for doing a bonus in these Zones.

[7:20:23 PM]

Can you explain that?

>> In r4 the .4 F.A.R. And it's plus 1 in rm1 rm1.

>> Alter: So in rm1 1 it's plus one to go from six to 10. Yeah, so the way the table is laid out for -- let me pull it up a moment. So the way the table is laid out, when you have five to

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six units, that's when you can take advantage of the bonus units or the bonus F.A.R. So with five to six units you can start to take advantage of the bonus F.A.R. So.

>> Alter: So a full point F.A.R. Is a lot if I'm understanding and we were not supposed to be hitting bonuses if we did six or four, if we -- I think it's the how many we can go up to. Until you hit five you aren't supposed to get the bonus and until you hit 7 you aren't supposed to get the bonus in rm1. So this is changing that to lower in terms of the bonus F.A.R. If I'm understanding this correctly.



>> Well, the way that

[7:22:25 PM]

previous drafts work you could take the bonus F.A.R. At any unit count so in this draft we're only allowing you to take the bonus F.A.R. When you're at the higher number of units. So five to eight -- five to eight in the rm1 zone.

>> Alter: But what does it mean in a zone where you don't do bonus until you hit 7 to get the bonus. I mean, is the F.A.R. Bonus different than the affordability bonus for number of units? I'm just -- I'm not understanding how this is translating into what we're doing in these Zones.

>> The way the bonus program works in all Zones is you can take the F.A.R. Bonus, the unit bonus or the height bonus if the zone has all of those options. Then you calculate based on how much bonus you took of

[7:23:25 PM]

one of those. So our bonus program, the draft bonus program to this point has never tied -- you have the need to take more units to get the other bonuses.

>> Alter: I'm confused to what this is doing. As I understood it you were getting some kinds of bonuses of unit numbers and perhaps there was some additional things that were in there that I wasn't aware of. If you were doing an affordable unit and you were doing the additional units, you could do that. And now we seem to have backed it down below 7 in rm1 rm1 and below five in r4.

>> I can't tell if you're asking a technical question or asking about rationale.

>> Alter: I'm asking to explain what this is doing because I don't understand how what you're proposing to graduate the F.A.R., how it interacts with our bonus. You're not supposed to be able to do more than six

[7:24:25 PM]

units in rm1 unless you do the affordable -- the bonus, but I'm seeing all these bonuses that are starting in earlier and I'm just not understanding how all of that is combining.

>> Harper-madison: So the intention behind my bonus was whether or not the question could be answered by me or if you're asking specifically staff about the technical part of it? I think you've answered it, but that was my intention, just so you know.

>> Mayor Adler: Councilmember Casar.

>> Casar: So mayor, while I've been trying hard and understanding F.A.R. From here, I think the staff have tried to graduate it well. I'm interested and open to continuing to look at that between second and third reading, but looking at this table right here, I think on the size lots that councilmember harper-madison has handed out to us it makes some sense, but once you get to the median size lot or the size lots that a lot of these are on, 9,000, 10,000, it starts making

[7:25:26 PM]

larger units than I feel comfortable with right now. I recognize and appreciate that councilmember harper-madison has included consider here, but now that we're here at second reading I just don't -- I think that I would want to see this -- between second and third reading to sit down and really figure out how to make it work well on small and big lots and just -- I don't feel comfortable passing this table here right now given the amount of time it's going to take to look at this the table given the hour and given the way it's laid out right now is bigger units than I feel on some bigger lots. I'm going to vote no on this, but urge that we recognize that this could be on smaller lots we might want to keep looking at F.A.R. Between second and third. I'm just not going to vote for it on this reading.

>> Harper-madison: I'd like to respond, but I think we are speaking prematurely because councilmember alter alter's question I don't think was sufficiently answered.

>> Thank you, councilmember

[7:26:26 PM]

harper-madison, it was not.

>> Casar: Sorry, I didn't realize we were responding to you.

>> Can you repeat the question?

>> Alter: I don't understand what this means if practice if I supposedly have a zone that's rm1 when I talk about a bonus with rm1, that was for my being able to do up to 10 units or being able to do 11 if I did preservation and now we have all these F.A.R. Bonuses and they're never in here and I never saw them and I don't understand how all those work together. Part of the reason I want to understand how they work together is the concern of how when we graduate for more units we might be undermining the incentive to do the affordability bonus at all. I'm trying to put all those pieces together, but I need to have some basic understanding of what we're talking about.

>> So under the proposed draft that staff wrote, you don't get any bonus until you exceed four units in r4 and six units in rm1. On the seventh unit in rm1

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or the fifth unit in r4, you can partake in the bonus. And like you said, you can do high F.A.R. And the units themselves.

>> You can do all three combined?

>> Yes. It seems under-- I'll need clarification from councilmember harper-madison, there's two ways that this could be interpreted. The first is that it's revising the Zones where three is the base number for r4 and five is the base for rm1. And the bonus starts -- you can take the bonus on the fourth unit in r4 and the fifth unit -- the sixth unit in rm1. Or it could be a typo that there's a bonus applied to the three. And she could just be trying to increase the bonus F.A.R.

[7:28:28 PM]

To one from 0.2. So I'm not sure -- in r4. And maintaining it at one in rm1. So I'm not sure which was the intent, but that's kind of how we're interpreting it is there's two options that it could be meaning.

>> Harper-madison: To respond to that, I think I should definitely clarify by saying that was just an example. And it literally says consider such as. So that was just an example to sort of try to lay it out because this is especially problematic in the r4 Zones. Long story short, the intention behind the amendment is to make certain that people are actually using the bonus so if we don't make it not just feasible, but attractive for builders, they won't use the bonus. So just making certain that we are not creating missing middle Zones where we can't actually produce the yield that we need in them was the intention behind the amendment.

>> Okay. So it sounds like then it's the latter interpretation. It's not trying to revise

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the base number of units, which is four and six. It's instead trying to increase the bonus F.A.R. That you get from 0.2 to 1 in in r4 just as an example that staff could calibrate what that F.A.R. Actually is.

>> Okay. So can you explain how staff landed on the .2 in the first place?

>> Laura Keating, planning and zoning.

[7:30:30 PM]

So the .2 was from the previous draft and we tested it for eight units and we -- and on a smaller lot, they're pretty small units, but we found it sufficient to provide for eight units on a lot.

>> So I'm not going to support this. It doesn't sound like we need to do it and I don't think it's clear enough what we're trying to achieve here.

>> So for me on this, I think that councilmember harper-madison raises a really good point with respect to calibration and how we're doing bonuses. This is a code draft that is inner credibly focused on providing greater affordability and the mechanism that we're using for that are these density bonuses. It's more leaning into affordability than any other code in any other city that

[7:31:31 PM]

I have seen. Again, it relies upon the affordability bonuses in part because that's the tool we have, coming from the state legislature. So the concern that councilmember harper-madison raised that I share is when we're done on third reading that we have something that's calibrated so that these things will actually be used. And manager, I reiterate as I have on many occasions, I hope that in this budget process we have the money to make sure we have that expertise on staff, whether it's an outside person, whatever it is, and I hope that during the -- on a regular basis annual, whatever, we recalibrate to just to market. I hope that regularly every six months we're finding out if people are in fact using the bonuses we have or if they're developing in areas where a bonus was available and they're not taking it, I think we need realtime information on that and regularly on that to make sure we're calibrating it

[7:32:34 PM]

correctly. That said I'm not going to support this amendment because I want us to do it on all of the calibrations you have as you steer us in. I know you have modeled and tested the calibrations that you have used so I'm uncomfortable sitting on the dais and adjusting them. But when you come back on third reading that you have come through and you are confident that they've done that and I want to see what the systems are to be sure that they are because I share the base concern that councilmember harper-madison has. Leslie.

>> Pool: Couple of questions, on the yellow sheet with the alternative tranche 2 amendment. It shows base standard, for example, duplex base standard .5 F.A.R. And plus 0 F.A.R. For bonus. And the footnote for the one

[7:33:34 PM]

on the bonus is missing so I don't know what that refers to. But when you go down a little further like the two lines, multi-family, it has .6 F.A.R. And .7 F.A.R. And then it's a plus .1 F.A.R. On both of those. Is that meaning that it's 160% of the lot size? Is it 1.6 F.A.R.?

>> So -- yes, so you take the F.A.R. From the base standard and add the F.A.R. From the bonus.

>> So I'm looking over at two different instances on this sheet, this longer sheet.

-- Up at the top where we have 1.7 test F.A.R. And a common lot size of 6,250 square feet at eight lots, I think this is the one that I did the multiplication at.

[7:34:36 PM]

The 1250 square feet with eight -- okay. Let me make sure I'm looking at the right one. Anyway, I come up with square footage for the housing unit with the numbers that are in here for the number of units, at the F.A.R. That's offered in comparison to the common lot size. And I find that there's more square footage for the living units than the lot size is. One of them is 9,296. And that's -- I think it was the 1328 square foot at the 1.7 F.A.R. At eight units. And for the unit size stacked, 1,129 square feet, I multiplied that by eight and I get 8,804. So we are saying that the unit size is larger than the lot or it is about 80% of the lot that it is being built upon. And it's a clear 80% when I do the math on at the bottom where we have rm1 F.A.R. At

[7:35:38 PM]

.8. And this is just a .8, not like 1.8. Average unit size, which is non-stacked, is 664 square feet. And that's six of them, and that gives me about 4,000 square feet. And the stacked is 567 square feet and I get 3400 square feet. So how does that relate to the lot size and the impervious cover and the other restrictions because you have at the bottom of this, does not take other site limitations into consideration. So my question is we've got these numbers and it's a pretty straightforward little bit of math calculation, and it looks pretty impressive, but I'm at a stopping point where I can see how this actually translates into something that's built on the ground given all of the other limitations that are on sites. So I imagine that our staff can speak to this.

>> Yes. Peter park, consultant to

[7:36:38 PM]

the staff on project. You're correct, that as you get over F.A.R. 1, then if you total up --

>> Pool: It's essentially doubling in size.

>> Or 1.6 it's 160%. So -- that's right. In terms of the total site area. So depending on how large the site is, the distribution of that square footage will vary. So if I make the building in multiple floors then the fingerprint of the building gets -- the footprint of the building is smaller and the footprint of the building is smaller than the square footage. So as we read these numbers, you're also correct that they don't -- as we read them they are just a reflection of what the F.A.R. Could be. That doesn't mean that's how much could develop, impervious cover. There might be other things that would limit what would

[7:37:39 PM]

actually develop on the site, which is always the case, right? So as we showed you in some models we were trying to demonstrate where while the F.A.R. F.A.R. Was X, we weren't able to get that much floor area on the site because impervious cover was the governing factor on some of the sites, especially the smaller sites.

>> Pool: Well, I would like to see some additional modeling of this to get a sense -- because this seems to be a phase I sort of incomplete data because we don't know what the impervious cover -- well, actually we do know what the impervious cover percentages are for each of the different Zones that we have devised. So we should be able to apply that against these totals to give a more accurate assessment of just exactly how much square footage could be built. Acknowledging that the higher you go on your structure, generally speaking, the higher your

[7:38:40 PM]

costs as well. So looking for affordability it's more than simply applying an F.A.R. Against the total site. So I would like to see some additional work on this for third reading. Thanks.

>> Mayor Adler: I'd like the colleagues just to check because we're going on 8:00. We have multiple amendments still to go and we have then to discuss and take votes on the three underlying motions. We could get into the detail on this if there's sufficient support on the dais to do it. If we're not going to do this now, then maybe that's not the best use of the time that we have. Jimmy and then Natasha.

>> Flannigan: Thank you, councilmember harper-madison. I think there's a little bit of confusion on this. I like the graduated F.A.R., so you don't get the full .2 for five or six units and you don't get the full .2 for three or four units. That it scales up. I might even suggest the same thing on the bonus, which doesn't happen right

[7:39:40 PM]

now. You get the full bonus for like the one additional unit instead of a little more bonus for each additional unit. So with that in mind I'm not going to -- I see your point to consider amending -- I'll probably vote no now, but I want to keep working through this because I think the graduated principal is real smart.

>> Harper-madison: I was going to say to respond to you, I mean, I think it's pretty clear at this point that we don't have the votes for this to pass, but I just want to be real clear about putting the emphasis on fact that this was a hard earned effort by my staff, by the way. Thank you, d1 office, to really just sort of give some general examples. So no, it's not completely substantive in terms of the data content, but it was just intended to be an example. But to go back to the fact that we've had the opportunity to have some privately contracted modeling done for our office, what we're discovering and which should be a major part of the conversation moving forward is that what we're

[7:40:41 PM]

discovering is the incentive to do -- well, I guess more importantly the feasibility of producing the kind of housing that we need in the missing middle Zones by way of our site development regulations is really difficult. So if there's something we can be doing during the course of these conversations to address the problem that we have with, you know, the small single-family -- in the urban core, I should say specifically. But at the small single-family, if it's not being replaced with sort of those shared models of housing, the duplexes, the fourplexes, then I don't think we're going to reach our goals. And that was the point here. So I can appreciate that my colleagues can't support it today, but I really also appreciate us moving forward with some substantive dialogue about how we reach our goals. That's the point.

>> Mayor Adler: Thanks for initiating that conversation. Do you want to vote or do you want to pull this back?

>> Harper-madison: I can pull this back. I would also like to pull back item number 16.

>> Mayor Adler: We'll pull back those two. Would you share with staff

[7:41:42 PM]

the modeling data and stuff that you have? So they can see that? That would be great. All right. So --

>> Pool: Mayor, mayor? Mayor, if I could. I think the data would be helpful for us as well to see what was behind it. Thank you.

>> Mayor Adler: So 13 is withdrawn and 16 is withdrawn. Okay. I think the next one then is 14. Harper-madison 14. Would you please pass this down to Ann kitchen? Ann, there's a -- Ann? There's a page for you? I do.

[7:42:45 PM]

Does anybody need -- I did kind of a tranche too, but it's -- it needs to be supplemented by what councilmember harper-madison handed out on her yellow sheet. It was also posted on to the -- it was also posted on to the message board. In case you're watching along. So harper-madison number 14, amended plats. Councilmember Casar.

>> Casar: Mayor, I'm going to support this one and we supported something like this also on first reading. But I would like after some conversation with watershed team to add as the intent that this is without impacting or reducing any of our watershed rules. So as staff tries to come up with something that works here to make it a little less arduous for folks to fee simple sell in missing middle Zones that we work on that without having those impacts to our watershed rules. And if that's the intent where we add that language in, then I feel comfortable

[7:43:45 PM]

voting on it again.

>> Mayor Adler: Okay. Councilmember Casar is suggesting that the language be inserted to the extent feasible. And without impacting our watershed rules.

>> Harper-madison: I'm comfortable with that.

>> Mayor Adler: Any objection to that being added? Hearing none, that's added. Further discussion on harper-madison 14 as amended? Councilmember alter.

>> Alter: Can staff speak to -- this was I think attempted in draft 1 when we voted in December. And you came back and said that I believe that we shouldn't do this. Can you speak to that, please?

>> Sure. Brent Lloyd, Idc team. This one, to be sure, does present challenges for us. We've not found another city that has implemented this provision. However, we're committed to finding a way to make it work and we feel like the other amendments that council has passed relative to particularly the preservation bonus and the lot size amendments provide some clarity for us in terms

[7:44:46 PM]

of how we might potentially structure and limit this amendment. So it's going to take some creativity and I think that the amendment that we bring back, should this pass, might be one that wouldn't work in all cases, but we're confident that we can provide something that will add value and will increase incrementally on some level opportunities for fee simple ownership within these Zones.

>> Alter: Thank you.



>> Mayor Adler: Further discussion on harper-madison 14? Let's take a vote on it. Those in favor, please raise your hand. Those opposed? Councilmember kitchen abstaining. That passes as amended. Harper-madison 15, preexisting conditions.

>> You're fine on that last

[7:45:49 PM]

yellow sheet that the -- you'll find that the last yellow sheet that the amendment for this item is on the back of it. And if you would share it with me because I don't have mine. I'm joking, I'll find it. Thank you.

>> Mayor Adler: Did we pass an amendment that addressed this issue earlier? Was it withdrawn? Did we pass something earlier, councilmember Casar, that dealt with existing conditions?

>> No, that was on the preservation incentive. I'm supportive of this one, which is a different amendment that was councilmember harper-madison tranche 2 amendment, just refined language.

>> Mayor Adler: Okay. Further discussion on

[7:46:52 PM]

harper-madison 15. Councilmember alter.

>> Alter: So as I understand the amendment that we're voting on is revised to the extent reasonable extend the range of repairs and improvements that can be done without triggering full code compliance for existing structure.

>> Mayor Adler: That's correct.

>> Alter: Can staff tell us -- give us some examples of the range of repairs and improvements that are currently done in this manner? Or don't trigger it.

>> I think that councilmember alter and this amendment, if this amendment passes we'd take it basically to say that the intent is to allow a greater range of sort of improvements and modifications to existing structures without having to come into full compliance with all of the existing building codes. And we can certainly look at this and try to find a way to sort of strike a better balance. Our code as written today already includes provisions we've talked about amnesty to co's and there are some other provisions that allow the building official to

[7:47:53 PM]

exercise discretion and judgment in terms of the degree of change that can be made without having to trigger full compliance. But this certainly would take some careful review, but we understand the intent of it and should it pass we would engage the building official and see if we can provide better clarity and potentially expand the range of repairs and improvements that could be done to existing structures without triggering full compliance.

>> Alter: Thank you. That was all.

>> Mayor Adler: Okay. Further discussion? Yes, councilmember Renteria.

>> Renteria: I'm going to support this because I went through that process. I was just going to install a heater, water heater on the exterior, water a demand. And when I pulled the permit, my god, I had to replace all the plumbing, had to put all these new beams to support my foundation for future growth, I guess. All wiring brand new. Not that I -- thank god I could afford it, that's all I could say.

[7:48:55 PM]

But \$40,000 later, yes.

>> Mayor Adler: Further discussion.

>> Harper-madison: And for creatives and venue owners it really is the accidental string you pull and unravel your whole financial sweater. So that was the intention here.

>> Mayor Adler: Further discussion on 15? Let's take a vote. Those in favor of 15 please raise your hand. Those opposed, those abstaining? Tovo abstains, kitchen.

>> Kitchen: I have to abstain.

>> Mayor Adler: Abstains as well. Other than those two the others voting aye. Pool is a no?

>> Alter: I voted yes.

>> Pool: Is a no, --

>> Mayor Adler: Pool is a no, 15 passes. 16 was withdrawn. We're down to the last two. Casar 10. External suite. Any discussion on this?

[7:50:02 PM]

>> Kitchen: So I just need to understand a little better. So this is not -- is this not something we can do right now, I guess? Is that -- obviously we're trying to solve a problem. So to help me understand a little bit better, the problem we're trying to solve.

>> Casar: That's right. So right now let's say you have a house and it's big enough -- it's a family and elderly parent. If you wanted to have a kitchen in the bottom part and a door that faces out to the backyard, and everything else is the same, no additional space, no additional people, right now we wouldn't allow a kitchen and bathroom so that people could have their own privacy and area in that same house. And I think that this would make those sort of intergenerational housing options better, allow for more privacy within the same amount of space, same thing with roommates. We know that there are some folks who struggle to afford to live in town without splitting their house with roommates. One of the big drawbacks for

[7:51:03 PM]

some folks is they want that sort of privacy. And so adding a whole unit can be expensive but this really isn't adding a unit. You would still have -- you would still all live in the same house, but would have the opportunity within the same shape of that house have a little bit more privacy while still sharing the space.

>> Mayor Adler: Okay. Councilmember alter.

>> Alter: So staff, this is not allowed currently. I understand what councilmember Casar said. I just wanted to confirm it.

>> I think the new code proposes a clearer definition of dwelling unit than we currently have and I think that was developed, councilmember alter, in response to one of your amendments. And the intent of this as I understand it is basically to create sort of greater allowance for there to be living quarters in certain situations without it constituting a dwelling unit for purposes of triggering the full Adu or internal Adu or duplex requirements.

[7:52:04 PM]

As soon as you -- as soon as it qualifies as a dwelling unit it has to meet sort of the building code requirements and it would count towards your density for purposes of your units. And I think this is intended to create kind of a middle ground space in certain situations for people to be able to have living quarters in their house. It would of course be written without reference to the person or the age or any of those sorts of things, but I think that's its overall intent. And if this amendment passes we would -- it would take -- again, as with a few of the other amendments we would have to talk to the building official and we would have to look at what the potential options are, but we would certainly do our best to try to see if we can find some kind of a middle ground between dwelling unit and try to find a way to further the intent.

>> Alter: So under the new code it's needed. Under our existing code is this allowed?

>> Our existing code has

[7:53:04 PM]

some provisions that are problematic I think with respect to accessory apartments and secondary apartments and I would need to refresh my memory on all that, but I think that under our current code there are some requirements that sort of get at this overall theme. And I think this would be an attempt to sort of carry some of that forward and liberalize it and make it easier for people. And again, create a situation where you can have a living quarters in a house that -- where it wouldn't constitute a dwelling unit that would then trigger all those building code requirements and the density limitations.

>> Alter: Thank you.

>> Tovo: Mayor?

>> Mayor Adler: Yes, councilmember tovo.

>> Tovo: So if I'm understanding the conversation we just had, the main impact of this is to add an additional unit to every lot in every category so where we currently would be on the citywide -- on a

[7:54:04 PM]

citywide basis, say if it's r2-b, they would then be able to have in essence four units and then within r4 you would be able to have as many as six if you preserve the house on up to nine -- no, 10. I mean, it increases by one every single residential category. Making it possible to achieve four units on every single family tract in the city if the other conditions allow. Under r4, again, four units, plus one with a preservation, plus another with the Adu amendment, so that would be six as base entitlements, 10 with these two additional if you had an affordable housing contribution. And then it would bump up rm1 accordingly. Is that correct? Is that the impact?

[7:55:10 PM]

>> Mayor Adler: I think she's asking a question of staff. I'll let her ask that question.

>> I think the amendment as crafted envisions something that wouldn't be a full unit unit. It envisions that it would be -- it would not have a separate address. I think there's some other limitations and I think it invites staff to be creative and find an appropriate sort of -- an appropriate space that is sort of between -- that would be short of a full dwelling unit. So if this amendment passed we would do our best to come up with a definition of internal suite that would meaningfully distinguish it from an actual dwelling unit, but it would allow for I think the intent is to allow for people to age in place, people to

have living quarters in their home, and not trigger the potentially costly process of having to sort of divide up a home and create a separate unit.

[7:56:10 PM]

So that -- I think that's the intent of it.

>> Tovo: But just to interrupt you for a second. I don't mean to be rude. But I'm not understanding the meaningful difference. If I want to create an internal suite, I can rent that out to somebody other than my family, correct? I mean, there's no meaningful -- does the suite function any differently than any other apartment or any other dwelling unit? It still has a kitchen, a bathroom, amount things you would need in any other dwelling unit?

>> In looking at how we would define it and distinguish it from a dwelling unit, it might be that we would propose something where it wouldn't have a bathroom or it wouldn't have all of the elements of a dwelling unit. But it certainly wouldn't be -- we would not propose anything that limits it to a relative or, you know, anything about the person themselves. You know, this is an amendment that would present some challenges, but it's one that if it passes we would do our best to try to further its intent.

[7:57:11 PM]

>> Tovo: It seems to me that what is being described is in essence a dwelling unit. It's just within a house and not in an Adu. And there's nothing -- it in essence functions like another dwelling unit. So I see this as a plus one in every residential category.

>> Mayor Adler: Councilmember Casar and then councilmember kitchen.

>> Mayor>> Casar: You would consider it a plus one if a kitchen wasn't allowed, but my understanding is in many parts of the city this is quite allowed, it's just as you have to verify the age of the person, which seems to present real challenges within the current code. Is that right? So what I'm saying is what I still want to be able to do, a lot of what we're allowing under current code I just don't want there to be any mention of the teenage requirements for living in -- the age requirements for living in a place because that seems a little touching. So if the current code allows you to do these sorts of things, but asks you for an age requirement, I think that people should be able to have their kids move

[7:58:12 PM]

back, move into it or their senior parents or people that aren't related to them. So I think that that's one thing that I think we need to look at and consider here. And second, now that we have internal Adu

allowed, I do think that there's a reason for there to be a distinction between if you have your Ann address and you are walled off from the rest of the unit or what it looks like to have a door that connects your house and you're all on the same utility account. So in my view there's a reason to have that distinction.

>> Mayor Adler: Councilmember kitchen and then the mayor pro tem.

>> Kitchen:

>> Mayor Adler: Councilmember kitchen.

>> Kitchen: I think -- well, I am going to support this and the reason is, I think it's really important to allow these kinds of units. And I'm familiar with some of them that we have now. And I'm familiar with what you're saying, councilmember Casar, about the age, and I understand that that can be a barrier right now to doing those.

[7:59:14 PM]

So I think it's important as staff considers this to look at the kinds of suggestions that councilmember Casar said. For example, would not have a door facing the street, would not be walled off, limit on the overall size, all of those kinds of things, and other things that you can actually make the distinction. But I think it's particularly important for seniors and for families to make it easier. And I know that there's some provision for that now, but my understanding is, it's difficult to do now. So -- so I would like the staff -- I would like to see staff take -- you know, try it. See what you can come up with. So --

>> Mayor Adler: Okay. Mayor pro tem.

>> Garza: I remember during the conversation -- I'm going to support this and it's because during the conversation with ads, it was a valid point for many, you know, you would say

[8:00:16 PM]

adus allow a tool for people to possibly stay in place and, you know, there's examples in Portland and other places where the person actually moves into the Adu and rents out the front house or stays in the front house and rents out the Adu, and one of the valid points is, not everybody can afford to build an Adu. I feel like this -- I was responding, it might be a tool for everybody but it's a tool for some people, and I feel like this provides another tool for a similar situation where a person cannot afford to build an Adu, but they can somehow -- they've had the kids move out and somehow, you know, provide another opportunity for, I don't know, probably a shared housing and income potential for people without having the expense of building a whole 'nother dwelling unit, so I'm supporting it.

>> Mayor Adler: Okay. Any further discussion? Councilmember alter?

>> Alter: So I agree with the underlying goal here of trying to

[8:01:18 PM]

create these opportunities for living spaces and not having to invest in the full expenses of a separate unit. I think the part that's tripping me up is the -- like not counting it as a unit if you're allowed, and so I'm going to abstain and see kind of where you come back. But when you do, if you can think through what options we have on the unit part, because I think that's the part that's tripping me up, is that it's -- I don't object at all to creating that type of space. I think there's a lot of value in it. But then when you start doing that and you multiply it and you've added all these fires for all these big sizes, I'm not sure what we're doing in all these big spaces, and you combine it with the co-housing, and I just don't understand how it all goes together.

>> Mayor Adler: Okay. Ready to take a vote? Let's take a vote.

[8:02:19 PM]

Those in favor of Casar --

>> Tovo: I need to clarify something, based on the comments from my colleagues. I'm not understanding these to be currently illegal. Does the code that you've proposed allow for these kinds of units within an existing housing structure, or not?

>> It does. We would just consider it, depending on how it's constructed, it would be considered internal Adu, likely, under the proposed code.

>> Tovo: So I, too, am all for allowing for that kind of structure. I've seen them. I have friends who have them currently in their house. And it sound to me that the code already has made provisions for this kind of house. But it again seems to me the impact of this is to define it as something as other than a dwelling unit. And I think we should just be clear with the public about what we're doing, which is to increase the number of units in every residential category with the passage of this amendment.

>> Mayor Adler: Take a vote. Those in favor of Casar 10, please raise your hand.

[8:03:19 PM]

Those opposed? Voting no is tovo, abstaining, alter abstains, pool abstains. Other than those three, the others voting aye, Casar 10 passes. Gets us to our last one. Tovo 12.

>> Tovo: Mayor, we had an opportunity to talk about this tomorrow -- I mean yesterday. I did make an adjustment. I simplified it to an extent -- I mean -- I simplified it by cutting off the last piece. I have a couple of very quick questions for staff about one of the capacity analyses that you've provided. I can ask them after, but I just want to make space for that. I've got about four minutes of questions to ask about some of the missing middle property numbers, which you supplied through the Q and a, which I really appreciate. That was really useful inspections. We talked about this. I think that the transition Zones would have a lot more support, and I think would be more reasonable and better planning practice if they stuck to the council policy direction, and in

[8:04:20 PM]

this case, to the lower end of the policy direction. And so my amendment would reduce the depth of transition areas to two lots.

>> Mayor Adler: Okay.

>> Tovo: Which I'll just point out they are in many cases, but not in the central city, for the most part.

>> Mayor Adler: If you could get this, would you support the rest of the code as approved on second reading?

>> Tovo: Mayor, thank you for your question. I think we had that conversation last night. I'm certainly willing and have indicated on multiple occasions that I believe there's a path here to getting to a community consensus and a council consensus on a land development code revision and a map. We have not until this point been on that path. I hope we can get there and I'm going to continue to work for it. I think this is an important step in that direction.

[8:05:21 PM]

>> Mayor Adler: Any further discussion on 12? Yes. Councilmember kitchen.

>> Kitchen: I think this would be an important step towards -- I know -- I know we all feel like it's important to have a land development code that our community can feel more united than divided about. I know we all want that. I know we all want to come out of this with something that'll work, which means that -- you know, that we want our community to move forward with it. I think that we've all worked really hard to try to bring forward the things that we think can address the concerns that we're seeing. And I think that this -- this kind of thing -- you know, whether we're able to or ready to vote for something like this today or not, I think it's a step in the right direction. And, mayor think you're hearing that there's an interest in stepping in a direction that

[8:06:23 PM]



we could all find some consensus on. So I -- this is an attempt to do that, and so I would hope it would be received in that manner.

>> Mayor Adler: Okay. Any further discussion? Councilmember alter?

>> Alter: So I would welcome an open discussion about a compromise process. I'm not sure that's where we're going to get to tonight in this forum, but I look forward to having that conversation. I believe that rolling back the transition Zones to these two lots would be the first step towards that. We heard earlier that the capacity that we would lose would be about 400 by the way that they're looking at rolling back.

[8:07:23 PM]

That doesn't match perfectly with what councilmember tovo has proposed, so there might be a little bit more capacity, but we've also added a whole lot of things over the course of the few days that are not factored into their model. That should be increasing capacity elsewhere. I think that we need to create a situation where we rebuild some trust in the community, and I think that how we handle the transition Zones and how we vote on this will go a long way towards impacting that.

>> Mayor Adler: Yes. Councilmember Flannigan.

>> Flannigan: So, I -- I want to agree that we want to rebuild the trust, even amongst each other, which I think it's gotten a little dicey when we make difficult decisions. And I think we can -- we can

[8:08:24 PM]

proceed stronger. There were some good moments today, I felt, of compromise and collaboration. I think we can continue to find those. I'm still open to this conversation. I won't support the item now, but I don't think that's going to stop the conversation, obviously. Staff has some data work to do on this. I've asked them some questions, some more information. I think there are more questions than answers about yield versus zoning, when you zone, when there's no expected yield, and every part of the city has some of that, and it's causing a lot of confusion for folks. So I'm -- like I say, I'm -- I don't want that to preclude that conversation because to the extent that we're all saying things on the dais and off the dais that are either helpful or not helpful to that end, I'm hopeful that we can spend the next four to six weeks bringing

[8:09:24 PM]

ourselves together, even -- even if not every part of the community can get there, I'm hopeful we can bring the city together as much as we can.

>> Mayor Adler: Councilmember alter.

>> Alter: Thank you, Mr. Flannigan, I appreciate that. During the break I'd asked if we had a sense of how many properties were involved that would be taken out of the transition zone.

>> We were not able to do that. It's more labor-intensive than we thought, so we will follow up on the council portal as soon as we can get that information. So the question is total lots that represent the reduction to two lots, how many are reduced?

>> Alter: Yeah.

>> Mayor Adler: Councilmember kitchen.

>> Kitchen: I want to say thank you, councilmember Flannigan, also. I think we need to figure out how we have that conversation or, you

[8:10:25 PM]

know, what the setting is, I guess, for having that conversation. But I think we need to have that conversation, and I'm hoping that we can do that. Mayor, you had mentioned some things yesterday that made me believe that you wanted to have that conversation also. Can you speak to that?

>> Mayor Adler: I made an offer yesterday and I stand by it, and I certainly would appreciate people thinking about it and would certainly want to be part of that conversation. Anything else?

>> Alter: I think if we're going to have that conversation, it's going to be more than just rolling back the transition Zones by two lots. There's a lot that's in this code. And there's a lot to review and to figure out how all the pieces go together. And I think when we begin to understand the choices that were made, I think there's going to be a lot of concerns about the areas that are not in the transition

[8:11:28 PM]

zone. There are a lot of moving parts here, and how it all comes together, I think, remains to be seen.

>> Mayor Adler: And I hear that. You know, there's a lot of things we disagree with, even when we're fighting for the same goal. What I proposed yesterday seemed to me to be a way for us to move forward, recognizing that whatever we do, if we're able to all get together, it's got to be something that has a lot of things in it, some really significant things in it, that we don't like, in addition to hopefully enough to have us vote yes. Let's vote on number 12 by itself. Those in favor of 12, please raise your hand. Kitchen, alter, pool, and tovo, those opposed, please raise your hand. Balance of the dais. But I like -- I like the tenor of how we have ended the conversation on that item.

[8:12:28 PM]

All right. So I think now what we want to hear is you kind of outline to us how we're going to be handling the mapping of parcels and some of the decisions that still need to be made. After that conversation, we're going to vote on the main motion. Yes?

>> Tovo: Mayor, if I may, I have a couple of questions about how to interpret the chart that I really would like to air quickly.

>> Mayor Adler: Okay.

>> Tovo: So the answer -- again, I really appreciate having this information. I'm trying to make sure that I understand -- sorry. Glasses switched -- make sure that I understand the column correctly. The first column is totally property count. The second column titled new missing middle property count --

>> What are you looking at?

>> Tovo: I wish I could tell you.

>> Alter: It's in the Q and a?

>> Tovo: The last question.

>> The last question? Okay.

[8:13:30 PM]

>> Kitchen: If you all can pull up the chart and put it on the overhead so viewers at home can see it.

>> Mayor, while they pull that up, can I ask you a quick question?

>> Mayor Adler: Yes.

>> After this question gets the answer, are we about to adjourn?

>> Mayor Adler: Not quite yet. We have to take some votes on the three items. We have to approve on second reading.

>> I just wanted to check.

>> Mayor Adler: We're close.

>> I haven't said good night to my kids in three days. I was praying that might happen, but --

>> Mayor Adler: We're getting close.

[8:15:30 PM]

>> Alter: So this is the chart that just came in the Q and a in response to my question to try to understand what was equivalent zoning? Is that the one with the r4 and the rm1?

>> Tovo: It's actually 87, I'm pretty sure it's 87, it's the response to the question I asked, which is similar and, I think, built on yours. It's the very last Q and a. It's second reading, missing middle property numbers.

>> Tovo: This is [austintexas.gov](http://austintexas.gov) backslash, ldc. There's a button about learning. Click on that button. Go all the way down to the bottom. The very tiny print at the bottom, it says council Q and a. Click on that. And go all the way down to the bottom. The question -- this is the answer to question 87 and there there's a link all the

[8:16:34 PM]

way to the right.

>> Kitchen: Could you repeat that, please?

>> Mayor Adler: [austintexas.gov](http://austintexas.gov) backslash ldc. That gets you to the ldc website. Then go down and there's a button that says something like learn --

>> Tovo: Then you go to the bottom of that, and I think on its council, Q and a, there are two options for council, then you have to click on -- I'd be happy to go navigate if that --

>> Mayor Adler: Q and a. When when you do Q and a, there's all the questions asked by council, 87, down at the bottom, go down and there's a hyperlink to a page. Okay.

>> Tovo: Thanks so much. So, so this lists the r4 and rm1 by council district. The first, total property. The second property, I'm assuming those are the new units. Then the third column is

[8:17:36 PM]

comparable property count. Is that -- is that the existing -- existing units? So, for example, in D 9 --

>> [Off mic]

>> Tovo: No, that's not the same chart.

>> Kitchen: Yeah, if you could pull that up.

>> Tovo: I think that may have been the chart before -- before the additional information that we had requested yesterday about equivalent zoning.

>> Mayor Adler: Fortunately, we all know how to navigate there now.

>> As does the public.

>> Tovo: Well, there is a lot of very good information in the council Q and a so it's good for everybody to be able to find it.

[8:18:51 PM]

>> Mayor Adler: Have while they're finding it -- there it is. Now, your question?

>> Tovo: Yes. Thank you. Okay. So, first column is total. Second column is the new units. Third column, the comparable property count, is that the properties that are equivalent zoning?

>> So, the two -- just I'll go over it, yes, that first level property count is all of the properties that are proposed to be zoned to the r4 or rm1 in this chart, and then the second column -- none of these are units. None of the numbers in these charts are units. These are all property numbers, counts. So the second column, new missing middle property count is just that it's where there is an sf-3 or 2 or 1 that's being proposed for an r4 or rm1. Then the next is proposed

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property count which is the zoning -- it was trying to differentiate between the, yes, new zoning designations versus comparable zoning designation.

>> Tovo: Okay. That was what I needed to verify. So, for example, in d-9, there are 2133 r4 rezonings. The new missing middle is 1844. So that's how many sf-3 are going to 1844, and the current equivalent, the ones that have current equivalent zoning are 289. And so same for the rm1. I'm looking at d-5, 861, 640 are the new. 221 would be the comparable. D-6, 29, rm1, but 14 of those are new. Most of those -- most of those are comparable. Well, about half and half of the 29. Okay. Percent of district for new missing middle, that's a

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percent of the -- what exactly? Can you talk us through the percents?

>> Yes. So, this is my weakness, naming excel table field names, so forgive me. But the percent of district for new missing middle means the -- taking the -- for example, d-1 on the top row, the total property count for district 1 is 928, and the total property count of new missing middle for that district 1 is 795. The percent of district for new missing middle means how much of the new missing middle is the

percentage of the total property count. So it takes the second column, and what is that percentage of the first column --

>> Tovo: Got yeah. Okay. So if we wanted to see how much of the missing -- how much of the r4 category was rezonings versus existing --

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versus equivalent zoning, that's where we would look for that. So if we're trying to understand how much of the zoning is new zoning -- yeah, that would just be the 100 minus the percent for district.

>> Right.

>> Tovo: The next column --

>> It breaks it down per the district and then overall.

>> Tovo: So the percent of total for new missing middle, that the percent of citywide? Are we then in citywide?

>> Yes.

>> Tovo: Okay. And percent of district for -- it's just the opposite -- okay. So when we get to the percentages, the first and third percentage are basically the same information, expressed differently. So 86% for for d-9, 86% of the r4 is rezonings. 14% is equivalent.

>> Correct.

>> Tovo: Okay.

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And then help me -- if you could, please, understand the last column, percent of total for comparable zoning.

>> It's the same, it's the citywide. So it is the percentage of properties that are comparable zoning as compared to comparable zoning of r4 citywide.

>> Tovo: Okay. So the first three columns are relative to the individual council district. The last column is relative to the city.

>> The city.

>> Tovo: Okay. All right. Thank you very much for talking us through that. I think this is really valuable information because it gives us a sense of, within each council district, how much properties have been rezoned, compared to other council districts. It also helps us understand, and I really appreciate this

particular information that you added in today. It helps us understand in our individual districts how much of that is really being rezoned, versus equivalent zoning. So thank you. This is very useful.

[8:23:57 PM]

>> Kitchen: Mayor, I have a related question.

>> Mayor Adler: Okay.

>> Kitchen: I'm sorry, I didn't quite understand what you meant about the last -- meant by the last column. Can you explain that again?

>> The percentages, just looking per district percentage, then per city percentage. So all of r4 that is comparable zoning, the very last column says how much of the comparable zoning across the city for r4 is within that district.

>> Kitchen: Okay. So for d-5 then, of all the zoning in r4 citywide -- right? -- That is comparable zoning, then d-5 would be 3%. Is that what that means?

>> Correct. Based on these numbers, based on this analysis.

>> Kitchen: And that probably relates to the fact that 93 -- so the 93% is

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telling me that of the r4 in district 5, 93% of it's new, in other words, it's upzoned. Is that what it's telling me?

>> Yes, thanks what this -- yes.

>> Kitchen: Okay. Okay.

>> Mayor Adler: Okay. Yes. Councilmember pool.

>> Pool: And then looking at 7, so I understand this, and also to kind of explicate it for my constituents, we have a total property count under r4 of -- just shy of 2700 -- is that parcels? Lots? Properties? What do you mean by property?

>> Properties means parcels.

>> Kitchen: Okay. Which could be more lots. Right?

>> Correct.

>> Kitchen: Because a parcel can have more than one lot on it. Right?

>> Correct.

>> Kitchen: Okay. And then of those 2700, a bit over 1500 are the new missing middle property count, based on the mapping

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that you've done.

>> Correct.

>> Pool: So it's more than 50%. Right?

>> I don't trust that math in my head right now.

>> Pool: Well, 1500, 50% would be 3,000 and this is 2700. So it's more than 50%. See, look at that. Brilliant. The math was right there. Comparable property count, 1178, that -- explain that again? Comparable property count of the total?

>> I'm sorry, say it again. I'm also getting lost in my own data.

>> Pool: That's okay. It's late. I'm just walking through it again. The 1178, on comparable property count one more time is...

>> The comparable zoning -- the properties that are

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zoned r4 as a comparable zoning designation.

>> Pool: Okay. I'm going to work through that and make sure I understand it. So 56%, we got that. The percent of new missing middle is 17. We got 44% that makes you mean the equivalent of a --a hundred. Now the last column, looks like district 7 has the highest number in that's column. Can you explain the 42% in that column for comparable zoning? Is it saying that district 7 carries 42% of the r4 zonings citywide?

>> Kitchen: That are comparable.

>> Comparable.

>> So if I may, that means that there was sf-4, previously -- sf-6 previously so it was just a translation. There was not upzoning.

>> Pool: I'm actually not surprised because there's a huge component in district 7

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of -- especially affordably priced apartments so the r4 would be similar in that you would be looking for more units on a property. Right? Okay. So I'm not surprised. That's sort of part of the history of the development of the city and where we put a lot of the now lower cost because they're older structures. And in this case I'm only talking about single-family or the older smaller apartments, which would, I guess, be the rm1? Okay. And down there, we have about a 20% share of -- throughout the entire city. And that 20% is the highest and it's matched by -- is it d-10? Am I looking at at the --

>> Mayor Adler: D-1 is the highest.

>> Pool: Okay. That makes a lot of sense to me because that's how the city has grown. We've grown from the central part outward. Okay. I think I follow this thank you.

>> Mayor Adler: All right. It's 8:30, should we move on?

>> Alter: I just want to

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point one thing out. For those who are interested in the Q and a, there are a couple other answers, and I appreciate staff getting us the data. If you're interested in seeing a breakdown of the number of properties by residential district up to rm1, one of those documents will tell you that, and then there is an excel sheet that you can go to and you can try and see by district what the breakdown is by base unit or bonus market units or bonus affordable units, depending on whether we're at the high end or the low end of our data. And that's where I got what I said earlier about there being only 18 affordable units coming out of rm1 in high opportunity areas, is where I found those calculations. There's some interesting data in there.

>> Mayor Adler: Okay. Let's take a vote now on item number 2. We can discuss it -- oh. No, no, we have to hear about the report from mapping and that kind of

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stuff.

>> So, council, mayor and council, we'll just give a little overview of kind of what we're planning with respect to the transition table and sort of a memo that will outline the next steps going forward. We are planning, on February 28th, to provide you with a draft translation table and a memo and just to kind of recap, we've discussed this a few times over the last several days. But just to kind of go over it again, the translation table had been a table that distills down all of the various zone criteria that you all have articulated over the last few months for how different Zones that exist today are converted into new Zones. And the table will include some cleanups recommended on our part as we've mentioned. We

believe that a great -- a great deal of the criteria that you've articulated are perfectly sound for purposes of a comprehensive rescission and we expect that a lot of that will be recommended to be carried

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forward. We also anticipate that there will be some criteria that we think need to be simplified, tightened, in a few instances where decisions that have been made to now should really be deferred until after code adoption through a planning and zoning process to occur once the code is in effect. So the memo will include that draft translation table with our recommended changes, and it will also include suggestions for items that should be deferred until after code adoption. To the greatest extent possible, the criteria that we suggest will be loyal to what you have voted on up to now, with only those modifications that we think are necessary to fit within the rubric of a comprehensive revision. The memo will also outline situations, particular cases where we think a zoning refinement process would be appropriate after code adoption. And zoning refinement is the term that we've kind of landed on to describe those

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situations where it probably doesn't require a detailed sort of on the ground smaller process, but looking at categories of situations. You know those cases where you have articulated criteria that would look at the use of property, that's an example, I think, generally of situations -- a situation where we think deferring it until after code adoption makes sense. Also, we've talked about several instances where the application of comparable equivalent zoning carries forward zoning that maybe isn't ideal, zoning that is sort of out of step with the sounding area, and those are situations, those are examples of situations that can be fairly easily identified and dealt with as a batch without necessarily having to go into a great deal of detailed planning. We would also, I think, list some options that you all may want to consider that we would need additional

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direction on, but things that have sort of emanated from the discussions over the last few months that we think that might be of interest to the council. And then additionally, we'll go into some suggestions for next level planning. We, in our October 4th staff report, we kind of articulated some broad principles to inform what next-level planning may look like, following code adoption, and I think that this memo would be a good place to kind of refine that discussion and give some suggestions for prioritizing. For example, one of the -- the north burnet gateway is one that was mentioned recently, and some of the existing regulating plans, maybe beginning with an overhaul of those and looking at -- fine-tuning plans

that are already adopted would be at the top of the priority list. And then we will also in this memo offer some suggestions for considering changes to the planning process going forward and

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really look for your guidance as to where you would like to see the priorities -- priorities lie within the small area planning going forward.

>> Mayor Adler: Okay.

>> Kitchen: I have a couple of questions.

>> Mayor Adler: Go ahead.

>> Kitchen: So let's talk for a minute about what your -- what the staff is thinking in terms of responding to and following up on the process that we had talked about previously where we invited neighborhoods to submit information to us. And we need to -- we need to understand how that process fits in and what we should be thinking about in terms of responding to those folks.

>> I think our suggestion, councilmember kitchen -- and we're certainly, you know,

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ready to follow council's lead on how you would like the process to proceed, but our suggestion is that over the next few weeks, we, staff, focus our attention on sort of a draft finalization table for your review and a map for third reading. We are certainly -- if you want to revisit -- a process for further input, we're available for that, but the work involved in distilling down and defining and packaging all the criteria that have emerged from this process over the last few months is going to take some time and effort, so I think we would -- our preference would be over the next few weeks for us to focus our energies on that. But, again, we're available to assist council in whatever way you decide.

>> Kitchen: Well, I'm just asking how you see this fitting -- how you see those fitting in. A number of us have had neighborhoods come to us and

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make some specific recommendations. I know councilmember tovo has. I have, too, where they've recommended areas within -- within their neighborhoods that they consider better potential for -- you know, for additional units or additional housing that may be in slightly different places than where they're mapped by the -- sort of by the more blanket approach that we've taken. So what is our process

for considering those? And if you don't know now, then I'd invite you to put it in the memo that you're talking about. But we -- and, mayor and councilmembers, I don't think we can leave those folks hanging. We've talked about trust in the community. We promised them in the fall that we would have a process that we would consider. I need to understand what

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that process is. I mean, that's the fastest way to break trust with the community. And they already feel -- already feel like we're not doing anything with it. So -- so, I don't have any problem with changing course, you know, in terms of how we do it. We had talked about a map book before. And that's what we said on first reading, we were going to do. I'm okay with doing something differently than that. I just don't think it's appropriate for us to not speak to what we're going to do, and we have to do something. So I -- is there -- I'm sorry, did you want to say something?

>> I would just add that we will address it in the memo, and I think that we have a lot to sort through with regards to looking back at the may 2nd direction. We had committed to the team after second reading to going back to the direction on page 18 and 19 of the may 2nd direction that was planning and things that you all were thinking of on

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may 2nd, and then letting the team think through how that information could be rolled into a process moving forward, which will likely be in the refinement process.

>> Kitchen: Okay.

>> We leave it open to allowing us a couple weeks to --

>> Kitchen: Okay.

>> -- Come up with that memo.

>> Kitchen: Okay. So I think that the refinement process might make sense. I would want just for you all to consider, I would want whatever you come up with, you know, whatever you think is appropriate in terms of a process, that it's near term and more immediate, and it might be, like, right after we adopt, so it might be a refinement process. But it has to be that. I mean, I don't think it can be a promise that at some point in the future we might consider something for that neighborhood. Because I think that really breaks trust. And we're really close to breaking trust now. You know, I'm talking about

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myself also because on first reading, we said that we would -- mayor, I'm just inviting you weigh in because you were part of these conversations. We said to the public then on third reading, we were going to consider these things. So if we're not going to and there may be very good reason not to, based on what you all are saying, we just need to be clear on what the process is.

>> Mayor Adler: I think that's true. We're going to consider it. The staff is going to tell us how we can appropriately consider that. And obviously we want to do it in an appropriate way. But I think that what this exercise -- this whole comprehensive code process has shown us is that, you know, there's a lot more work to be done in the city, that this is not something that ends with the adoption of this.

>> Kitchen: Uh-huh.

>> Mayor Adler: And that we have more work to do, and the more we can focus in individual places for truly

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contact-sensitive solutions, we need to do that. We need to set up means for us to be able to get there. And as we approve this on third reading, we're going to be -- the staff is going to be laying out for us how the various paths forward work for the various different kinds of properties. So we want everybody to continue to stay engaged in this.

>> Kitchen: Okay. I'm -- I'm not -- I have a bit of concern about backing off of the map book process because we clearly promised that, but I hear what the staff is saying, that there's probably a better approach. And I just wanted to be clear that I remain committed to do this in a very clear way because I think that it gives -- at least what I've seen

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submitted from the -- from the neighborhoods that I work with is something that aligns with our goals and is something that we need to have a path towards putting into place. I -- I'm hoping you're agreeing with me, mayor.

>> Mayor Adler: Yes. I think there are. But we can't do things that we can't do. We promised people that we would stay engaged with them. We want people to lay out for us how to reeven if the -- how to refine the plans that we have. We'll do it for the absolute fullest degree that you and I are allowed to do that under the law, and we need to do that.

>> Kitchen: Okay. I have a different question. So -- and this -- tell me where this fits in the process. And that has to do with -- and it may be part of the translation table, I don't know, but I have a question about the cos and because I have -- you know, and if

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the proper approach is that -- if the proper approach is, you know, an amendment on third reading or something like that, I would just ask you to speak to it when you're thinking about the translation tables. Because I'm concerned about -- well, I don't think we've been consistent in how we carry forward the cos and I'm also very concerned about the fact that we have not carried forward some -- some agreements that were made in individual cases that relate to traffic and transportation safety issues. So if that's a matter that I need to bring forward as amendment, I'll do that. I didn't this time because there was two other -- too many other things to deal with, but I want to know what the path is to deal with that. So if you could address that, too, and what you -- okay.

>> Mayor Adler: Okay. All right. We have a base motion in front of us, as amended.

[8:43:18 PM]

We have seven votes, we can approve this on all three readings. Just kidding. There's a motion to approve this on second reading as amended. Any discussion before we take a vote? Councilmember Flannigan? All right. Let's take a vote. Those in favor, please raise your hand. Those opposed? Kitchen, tovo, pool, and alter voting no, the others voting aye. This passes on second reading. Okay. That then gets us to agenda item number 1, which is approving on second reading the ordinance amending the imagine Austin comprehensive plan, revising the growth concept map, and the text as provided by staff, recommended by staff. Is there a motion to do this? Councilmember Casar makes

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the motion. Is there a second? Councilmember Renteria second it. Any discussion?

>> Kitchen: Yeah. I have a question.

>> Mayor Adler: Yes?

>> Kitchen: I pulled up -- so this is the one related to the Flum map. Right? Okay. While I'll pulling up the map, if I could ask the staff or legal just to explain to us again what the significance of this one is?

>> Yeah. The plan amendment is basically intended to provide a firm foundation for the concept of transition areas as a planning tool.

>> Kitchen: Okay.

>> And it provides a graphical depiction of the transition -- of a transitional land use designation and we've retitled it, since it includes high opportunity now as well, we've retitled it just missing middle transition area designation. So mmta.

>> Kitchen: Okay.

>> And that provides -- sort of graphically depicts the areas in which the missing middle Zones can be applied

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consistently with a citywide plan designation in imagine Austin.

>> Kitchen: Okay. I'm pulling up the map, and my question is, it's a little hard to read because it's -- it's pretty small, but on first glance, it appears to include the vulnerable areas. Is that true?

>> Councilmember kitchen, that is correct.

>> Kitchen: So what we would be asked to vote on is a future land use map that goes -- tell me if I got it right -- future land use map that goes into imagine Austin that includes transition Zones in the vulnerable areas. When we passed an equity overlay to take transition areas out of the vulnerable areas. So why would we -- why would we adopt a map that -- that shows us mapping transition

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Zones in the vulnerable areas? Tell me what the thinking is there.

>> So for some of the areas on second reading, based on first reading direction, there still are transition areas in the dynamic areas. They've just been -- the zone that's been applied has been reduced from r4 to r3.

>> Kitchen: Yeah. I'm not talking about those areas.

>> So in early type 1 and susceptible, you're correct. The application of the missing middle zone has not been applied, but we have offered on second reading the concept citywide in support of the may 2nd direction of 5050 and transition areas supporting that work in imagine Austin corridors as a future growth concept, even though it's not applied per your direction as the code implementation tool. Because imagine Austin is the comprehensive planning

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document, and the code is meant to implement imagine Austin. So we thought that was proper to offer for discussion.

>> Kitchen: Okay. Well, tell me what the impact of it is.

>> The impact would be for future -- applications for zoning, should the code pass --

>> Kitchen: Uh-huh.

>> -- That an applicant wanted to apply for a future missing middle zone, one of the planning principles staff would look at would be whether or not the request is consistent with the comprehensive plan.

>> Kitchen: Uh-huh.

>> And by looking at this map, we could determine at least for the future growth concept it was, and then we would look at other planning principles, similar to what we do today, in reviewing our recommendation for a zoning case. Four areas that have adopted neighborhood plans, which is about 25% of the city, the map would supersede. And so a Flum amendment would not be needed in

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addition to the zoning change in order to realize the new zoning district in that area.

>> Kitchen: Okay. So and those zoning cases would come to council?

>> Yes.

>> Kitchen: I'm really reluctant to do that, particularly since what you just said, that it would override a neighborhood plan. So I'm very concerned because I agree with and I thought the approach that council took in not mapping -- in not mapping these transition Zones in the vulnerable areas was for a good reason. And so the timeline, if I'm understanding correctly, is, you know, the concern was about mapping transition Zones in the vulnerable areas, is that we would be accelerating displacement. And so now are we saying we're going to consider that on a one by one basis? So the minute we adopt the

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land development code -- developers could come in and ask for an r4 in a vulnerable area and it would be a zoning case. I'm not sure why we would do that, unless we put some timeline on it, that we wouldn't consider that for, you know, two or three, four or five years or something like that, I think it really undermines the policy that we adopted and the reason that we said we didn't want to map R4s in transition Zones. I mean, this council has really stated a policy goal of protection against displacement in those areas. I mean, you know, this council -- I mean, what, in five years or so, I mean, some of us will still be here and some of us won't, but I mean, I really -- I can't support that right now. I don't think this map

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should -- should -- I don't think this map should show transition Zones in vulnerable and the early -- early and susceptible, unless you're going to -- unless we think about some kind of timeline because I don't think we're protecting against displacement.

>> Mayor Adler: For me this represents the right compromise on this. The zoning map that we intended to adopt as the zoning map, if anybody wants to come in and change it, they have to go through the process of the planning commission and to the city council. Beyond that, people would have petition rights associated with any kind of zoning change. As we go through a process like this, recognizing that there were some people on the council that didn't want to pull back the transition areas at all, I think that the way that you work for a compromise like that, I think the appropriate compromise in this situation is to make the situations that we've made to the zoning map, to provide the

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petition rights and all the rights through city council that come with that zoning map, but to also look at a comprehensive plan that's looking decades out into the future and saying this is how we aspire our city to be, is the right strategic direction for me. So I'm comfortable with voting for this on second reading. Councilmember Ellis.

>> Ellis: That actually answered my question. It was going to be about second reading because I know in our communication with some constituents and with my staff, there was some spots where there was either split zoning or even a case of an r4 that wasn't on the map. So I look forward to continuing to work with y'all and my staff in supporting this on second reading.

>> Mayor Adler: Okay. Any further discussion on this item before we vote? Councilmember Kitchen.

>> Kitchen: You know, mayor, I certainly respect the difference of opinion on it, but I thought -- I didn't

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think that our pulling back on transition Zones in vulnerable areas was a compromise. I thought that that's something that we all embraced as a -- to further our goals. I certainly did. And I don't remember anyone saying that they didn't want to do that. The other thing is, decades into the future, I understand. I don't understand putting this in place so that, you know -- you know, that it's effective immediately. So I think we need to give some thought, and I would ask our staff to consider ways to use a Flum that allows for some -- some timeline involved, particularly with regard to this -- this is the particular issue that I'm concerned about because we're going to be doing one-by-one zoning related to vulnerable areas, and I just don't think that's appropriate.

>> Mayor Adler: Okay. Councilmember pool.

>> Pool: I just wanted to clarify, are you saying that after third reading, we are

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going to initiate the code and have it in place before we codify it and before we set up our training? Is that what you're saying, mayor? That wasn't -- because that wasn't what I thought we were going to do.

>> Mayor Adler: I don't understand your question.

>> Pool: I'm not sure what the timeline I heard you say that the code would be implemented immediately.

>> Mayor Adler: The code represents our rules. The map associated with the code represents how we're zoning the property now. And the Flum and the comprehensive plan shows strategically how reenvision the city to move in the future. What we're doing is now talking about that third element.

>> Pool: Okay. Are we still taking the time that staff indicated they needed -- I think it was six to nine months at one point. There was a discussion of going through and making sure that all the training materials were put together and staff were trained on the new code.

[8:54:29 PM]

>> Mayor Adler: I don't think we resolved that question yet, that's something we need to talk about between second and third reading.

>> Pool: All right.

>> Mayor Adler: We've made no decisions with respect to that. Those in favor of approving item number 1 on second reading, please raise your hand. Those opposed? Kitchen, alter, pool, and tovo voting no, the others voting aye. Item number 1 passes on second reading. That gets us then to item number 3, which is illusion from councilmember tovo. Is that right?

>> Tovo: Yeah. This, and we've had an opportunity to talk a bit about this, but this would just emphasize that as we move forward into third reading, that we are directing the city manager to provide resources and support for neighborhoods who are in the process of trying to develop those alternative maps as we've had an opportunity to

[8:55:33 PM]

discuss.

>> Mayor Adler: Okay. Discussion on -- is there a second to this resolution from councilmember tovo? Councilmember alter seconds it. Discussion on this item?

>> Flannigan: Mayor?

>> Mayor Adler: Yes. Councilmember Flannigan.

>> Flannigan: My main hesitation is that the staff has not yet communicated what that process is. And so kind of to councilmember kitchen's point, I would hate to start investing resources on a thing that isn't yet defined. So, I mean, I support providing the community the resources they need to comply with the process, once we know what that process is. I don't know that it's kind of an intractable kind of like chicken and egg problem, so I'm not going to vote yes on it, but I don't preclude the value of it.

>> Mayor Adler: Can staff speak to this?

[8:56:33 PM]

I mean, as part of the process, obviously we want to have people to be able to participate and to be the get information and proposals. What would this mean, how does this fit into the larger scheme? Do you know?

>> Thank you for the question. In reviewing the resolution, it would seem -- you know, of course any next-level planning process need to include public engagement. It needs to have a proper planning process that includes the community. So to that end, we would want to do that. But it would seem appropriate as councilmember Flannigan pointed out to consider it as we consider the next-level planning, would be the best opportunity to realize resources and planning processes that include the community and what that might look like. So that's what -- that's how we've been discussing the resolution, that we definitely need to do that, but it would look like

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perhaps with the refinement process or perhaps with the next step after the refinement process, and we'll certainly consider it with the next step, which is the refinement process. Because that's the most immediate and in hearing the discussions here earlier, we will certainly consider what we might -- what we might need in order to do a -- an equitable -- an equitable inclusion process for that mapping process. That will be the most important part is to include the equity office in that and figure out what neighborhoods do need those resources and make sure it's equitable.

>> Mayor Adler: Okay. Councilmember tovo.

>> Tovo: Ms. Beaudet, when you say the next level, are you suggesting after we have already passed a land development code and map?

>> Potentially.

>> Tovo: So I think there are different approaches that we can take, and, you

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know, before we conclude tonight, I, and maybe others, have some general comments, and one of them is about potentially where we go from here, between second and third reading so I'd like the opportunity to say a few comments when we're done voting on this issue. But if we're going to try on third reading to really incorporate some of those suggestions, I mean, we have neighborhoods that are working very -- very collaboratively and really working within the policy goals and trying to present those alternatives, but they do need an opportunity, I think, to really have -- have access to our staff and have the ability to to review those. So if we are going to continue to press on toward a map that is really impacting neighborhoods on a broad scale, then I think we need them to have those -- that access to resources right now before we finalize that map. If we decide to take a step back, which I hope we will, and do much less intense

[8:59:35 PM]

rezonings at this point, then I think absolutely it would make better sense to have those resources available afterward for the next level of planning. Next level of planning. To me this is a commitment to provide that level of support equitably across our city at whatever stage periods appropriate. So I see this as not necessarily making a decision about when that is. But but, again, if we're pressing on toward - it's not clear to me when we're making decisions as a council about what that third reading process looks like because we're not scheduled -- are we intending to take votes on that at a regular council meeting? It's not clear to me what that process is. I think people need certainty and they need certainty before third reading on some of those issues. I really do appreciate some of the willingness to consider reductions of the transition zone that we talked about tonight. Thank you for that. Similar willingness to

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consider it was expressed on first reading, but as of right now, we haven't made any meaningful reductions in the eyes of many constituents. And I think if we wait until third reading, I'm extremely concerned that we will have waited too long in the process to really address some of those issues. So if there is an interest and a willingness to consider some more fundamental shifts, then I would suggest we figure out how to take those votes between now and third reading so that people don't go into third reading needing to comment on that, that we have set ourselves on a different path before then.

>> Mayor Adler: Councilmember alter.

>> Alter: I just wanted to signal I do have some remarks but I wanted to see how revoted on item 3. I've been trying with this to figure out when to make those, so once you vote I would like an opportunity. I'll be very brief.

>> Mayor Adler: Okay. I'll certainly not close until people have a chance

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to make brief comments. We're on item number 3. Council -- mayor pro tem Garza.

>> Garza: I guess I just don't know -- maybe this is what councilmember tovo was trying to say. I don't know what this means for a process. I don't know -- and it's my understanding, what I feel like is being characterized as nobody did anything with these or nobody -- what -- the response people got wasn't one that they wanted, but it's my understanding staff looked at everything that was -- please correct me if I'm wrong, everything that was submitted and if it didn't fit the criteria of the policy that we all passed, they were told that doesn't fit the criteria. Is that right?

>> We did collect maps that were due in November, and we

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did check the maps against the criteria for major criteria -- four major criteria and submitted them to council -- to all of your offices for consideration with regards to any future amendments that would come at first reading or second reading. So, yes, and many of them from what I remember did not meet most of the criteria with regards to just the high level -- we have the -- a cost cover sheet on the website of what the criteria was.

>> Garza: And staff did -- so you did look at everything that was submitted?

>> We did review them for just those four criteria before we submitted them to your office. Yes. Your offices, yes.

>> Garza: So I'm just trying to understand where -- first it's not true that nothing has been done, that these submitted documents haven't been reviewed, and so I'm just trying to understand where in the process we're talking about.

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Because if we're talking about between now and third reading, I don't know where that happens with our time line.

>> Mayor Adler: Councilmember kitchen.

>> Kitchen: The process that we said we were going to follow that we talked about on first reading and it's on the record is -- and, you know, was a map book process. The process was never that staff was going to say yes or no and that was going to be the response to the neighbors. The response was that we -- and we talked about it in great detail on first reading and we all agreed -- and we agreed that that was going to be the process. So we haven't responded them. It is true that we haven't responded to them. It doesn't mean -- I'm not suggesting people did something wrong or did

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something different. It's just we haven't finished the process. We -- on first reading we said what we were going to do, and we're now changing it. And that's okay. We just need to be clear on what the process is. So the process when we invited folks to respond, we never said as part of that process that it was going to be something that the staff would say "Yes" or "No" on and then that was the end of it. That was not the process. So, anyway, that's why I'm bringing this up now. I'm just wanting us to be clear with the public that we think we have a better way to do this now than the map book process. That's all. So. . .

>> Mayor Adler: So I'm -- if I knew what you were going to tell us about the various mapping processes it would be a lot easier for me to do this now. I think that I need to wait to see that to know what

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this is. So I don't know whether to vote no on this or to suggest that we postpone this and then bring this up as we learn more. I mean, I'd feel more comfortable if we could postpone this rather than voting no, but I just don't know what it means to provide resources at this point because I don't know what that is. I do know I think it's really important for us to either be able to incorporate it into this process or have a very direct map, roadmap, of how it is we're going to do the greater context specificity that I think it's apparent to us all that we ultimately need to be doing. So I can either vote no or vote to postpone it, and I would vote for that. At this point without knowing more what the process is, I don't know what else to do. Councilmember kitchen.

>> Kitchen: What we might do -- and I'm looking to councilmember tovo, if this

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works. What we might do is ask staff, when you come back to us and describe the process that you also describe how we might be of assistance, which is the essence of what councilmember tovo is trying to

do. And then at that point if we have an opportunity -- if it needs direction from us, we need to create the opportunity that we can vote on that direction.

>> Mayor Adler: Does that work for you?

>> Tovo: Yeah. I think at that point -- again, I think it's important that we make that commitment prior to third reading. To be clear I don't believe I suggested these hadn't been reviewed. There are some that haven't been reviewed because they've come in after the deadline, and so those do require review. There are some that didn't come in at all because the criteria -- one of the four criteria for example -- and city manager, you and I had talked about revising the language. The language never got

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revised. The criteria was presented as if it was a hard and fast requirement. One of the requirements was that the same number of parcels be rezoned. Something like that. Now, that didn't -- that was very challenging. If you're a neighborhood like dellwood two and half of your properties nearly have been rezoned, what kind of alternative map can you do? Rezone the other half of the neighborhood? I mean, it doesn't allow for the neighborhoods who were looking at that particular criterion didn't see any opportunities there without -- I mean, they could accomplish the same number of units. They could accomplish in some cases higher density, as cherrywood mentioned today. But they didn't necessarily impact the same number of properties. In fact, many of them approached this with an eye toward impacting fewer properties. And so, you know, there just are -- again, there are maps that didn't get reviewed. There are some that didn't meet the criteria. That may have been one of the reasons why. I haven't had an opportunity to sit with staff to see why some or -- none of mine met

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the criteria for that matter. So in any case, I'm okay with postponing this for the moment.

>> Mayor Adler: Okay.

>> Tovo: But I do think it is a critical piece.

>> Mayor Adler: Any objection to postponing this item? Hearing none, item number 3 is postponed. Before we recess, before people make brief statements, I think that collectively on the dais we need for staff to reach out to the offices and get us some dates when we can approve this on third reading. I'd suggest we take a look at the -- maybe the last week in March, March 30. To April. That gets us back from spring break. I think that gives you time to be able to do what it is you need to do, also sufficient time for you to come to us -- well, before that week to talk to us about the process and the like and answer some of the questions that are open at this point so that people know. So, manager, I would ask that you do that, and I would include in that specifically providing for a

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public hearing opportunity. I'm fine with one on Saturday. But check with the offices and availability. Do you need anything else further us from to help us schedule those? Okay. Thank you. All right. Before we close the meeting, does anybody want to give -- I said -- councilmember tovo, you said you wanted to give some brief comments? Councilmember alter, you want to give some brief comments?

>> Alter: I can if nobody else wants to go first. I went first last time.

>> Mayor Adler: You're up.

>> Alter: Okay. So happy to go first. So I remember when we framed this process as achieving the Austin bargain, where we were going to concentrate increased development on our designated transit corridors and growth centers instead of the interior of residential neighborhoods. When I look at the code as drafted, I think we've lost our path and I fear that

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we've lost the trust of the community. These amendments that we have adopted here today are happening with minimal vetting and minimal public review, and this code does not just impact transition areas, corridors in certain parts of town. Transition Zones are important, but austinities need to know that the current changes affect every residential lot in every neighborhood in the city. I'm concerned that we're making big changes that will lead to big and expensive structures. This code is supposed to do more than just create new housing units. It's supposed to create abundant housing that is affordable to all income levels in our community, and it's supposed to be realize the vision of a compact and connected city that is vibrant and livable with access to parks and other amenities. Right now I just don't think we're doing that.

[9:11:47 PM]

Right now our overriding principle is to achieve a capacity goal of over 400,000 units, and to do that at the unnecessary expense of every goal that we care about, and I believe we can and must do better. Pushing through 1300 pages in less than two weeks hasn't given the community time to understand the magnitude of these changes or to offer substantive feedback. Most austinities do not have the time or resources to meaningfully participate in this process. But you know who does? Corporate developers do. They have teams who are being paid to sift through these documents so that they can lobby for changes that further benefit their bottom line instead of ensuring the code advances the common good. If we continue to ram this process through route restoring public trust we are doing an enormous disservice to our community. I can't support this draft, and I voted as such. I can support a code that



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creates growth in our major corridors with access to transit and in our growth centers like the domain and Mueller and downtown. I can support a code that allows us to add accessory dwelling units and duplexes, creates the tools we need to add density to neighborhoods through a focused planning process rather than with one broadbrush. This code doesn't do that.

>> Mayor Adler: Okay. Anyone else want to give any closing thoughts? Councilmember tovo.

>> Tovo: Yes, thanks. I appreciate the opportunity to do that. This has obviously been -- obvious to anybody up on the dais, our staff, the audience members, some of you have been here all week, this has been a very challenging process. And, you know, as I think about it, it doesn't really need to be. And I would and will continue to encourage us all to see if we can build council consensus and community consensus around a plan. I believe it's possible. I believe we're not there at this stage. I do want to thank my staff

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and the other council staff before I go any further in my talking points, and all of our land development code staff and other staff who have supported us. This has been tremendously time consuming for everyone, especially because of the abbreviated schedule. We may not always agree on everything, but I really appreciate the work that all of our staff have done throughout this week. And, again, the land development code staff as well. So, you know, in my amendments I really strove for that balance of amendments that would help us accommodate that new growth that we all agree is necessary while also working against displacing existing residents. I'm really disappointed, as I indicated earlier, that some of my amendments which I thought were extremely reasonable, including the one to have an on-site unit in high-opportunity areas, I'm disappointed that those didn't succeed. And I really hope in our meetings between now and third reading we can do more

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authentic listening to one another and see where we can achieve some consensus. I wanted to say to the community, both my constituents and other community members in the next couple weeks councilmembers kitchen, pool, alter and I will -- it builds on the amendments we introduced during these last several days, all of which I believe were defeated but I believe they have a lot of merit, and together represent -- taken together represent that collective path forward that I believe gets us to a community consensus. Our plan is going to propose significantly reducing the transition Zones and building on councilmember kitchen and pool's amendment policy direction from last may. It's going to propose a planning process that empowers communities to recommend their own changes for accommodate willing additional density in ways not just compatible with the existing housing, but also

with the existing residents. Many of the most dramatic changes have been proposed not on vacant land and green

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field areas but on top of and even in the middle of existing neighborhoods that are just the types of complete communities we say we'd like to see in every part of the city. And I think we had some really powerful testimony earlier today when we had a whole slate of individuals asking us to please let them be involved in guiding the changes that are proposed for their communities. You know, as we've heard from members of the public who have weighed in against this process, against the mapping and against the draft code, the thousands who have emailed, who have called, who have attended meetings and lodged formal protests, we've heard consistent messaging. They care about their neighborhoods. They understand their neighborhoods are going to change over time, and they want to be participants in and help design that change. And I think they deserve to have that opportunity. The map that we voted on doesn't really reflect that approach. The transition Zones were a creation of this council, not a concept included in the imagine Austin comprehensive plan, the reason we had to have number 2 on our agenda.

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They've become a term used to describe areas with significant upzonings that have been distributed and crafted inconsistently and unevenly across the city, and even in the case of my district, district 9, inconsistently and unevenly within the same council district. And, you know, as that chart we just looked at illustrates, you can see that pretty clearly when you look at those numbers. And my district just about 3,000 parcels are proposed for upzoning existing housing being proposed for upzoning, almost 3,000. In rm1 a category that allows up to 11 units have been mapped on about 1100 more than 1100 properties in district 9. Another council district has 14, 14 mapped with rm1 zoning. So just in conclusion, the current mapping in my opinion does not seem to be encouraging a diversity of uses and a diversity of density in all parts of the

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city. I think substantially increasing the number of units that can be on a residential property without computing more value for affordable housing is in my opinion a missed opportunity toward achieving our ambitious housing goals. And I am at this point concerned about how transition Zones are going to help our neighborhoods become more walkable, dynamic or more affordable. So I've heard from many of you, and you've heard our -- our council has heard from constituents across the city. They want to work collaboratively on a more context sensitive phased approach to creating more housing

opportunities and creating those complete communities. They be and I agree that the approach we've currently taken doesn't require -- that achieving those housing opportunities and complete communities doesn't require embracing extensive transition zonings that could transform their neighborhoods beyond recognition. So I do believe there's a positive path forward. I believe there's a positive path forward to a place of

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community and council consensus. It is not the path we're currently on. And as a consistent and a steadfast supporter of transit and our mobility plans, I want to add based on what I'm hearing from my constituents and others, I think it is critical that generating enthusiasm and excitement around the project connect vision and the funding necessary to achieve it really requires us to work harder on building that consensus around the land development code. I think it's absolutely critical. I still believe we can craft our re-- a revised code in a map that builds a positive future for Austin's future. I'm going to continue to work toward achieving that vision. Again, I invite the community please stay engaged, we need your great ideas. I hope you will help us shape and support that alternative path forward.

>> Mayor Adler: Okay. Mayor pro tem Garza.

>> Garza: I wasn't going to say very much. I wasn't going to say anything actually, but after

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listening to these two comments, I feel like the most -- the newest thing I can say after is -- what I'm hearing is not what we're doing. We're doing a comprehensive revision, and the further we get down -- what I'm hearing people want is, like, small neighborhood planning, neighborhood plans, what's good for my neighborhood and that's not what this process has ever been. And I feel like we have mistakenly started going down that path. And that's what the whole policy direction was about. And so it is -- I just think that needs to be addressed because this isn't about -- this isn't -- it's a different process. This is a comprehensive revision of our code, and we have parameters in which to

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work with that. I'll just -- you know, eight years, I think this is the eighth year. Is that correct, staff? Eight years we've been told the city with the longest time, experts and economists have told us we need housing, this is not an Austin problem, this is a nation problem, whether we want it or not, we are growing. We all -- if it was an 11-0 vote, we don't want anybody coming to Austin, it wouldn't matter because they're coming. And we have to plan for that. And if we don't plan for that we're pushing people out. But still we're told, wait, no, it's too fast. Eight years. We're supposed to double our

population in 20 years. Double. We will be double the size we are right now. No. Wait. Wait. It's going to too fast. Our families in east Austin are selling and leaving. Every time somebody criticizes this process they criticize what is happening

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now. Displacement and gentrification happening now. No. Eight years. Wait it's going to too fast. If I had not bought my house almost 20 years ago, something like that, I can't remember. As a firefighter, getting -- I had to get a second job to afford a house for \$99,000 in Austin, Texas. I could not -- I know my family right now with the pay we make together right now, the only place we could afford to buy a home in my district would probably be del valle. And that is perfectly fine and it's a beautiful community with beautiful families, and -- but that is -- I would not be living where I am right now 5 miles from city hall had that -- had that been the case. We keep being told, no, it's too fast. And we still have to be reminded eight years. Eight years. We sit up here and we mischaracterize each other's statement. I care about markets so I can't support this. We all care about parks.

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Hey, I don't want anybody to get flooded so I can't support this. We all care about people not getting flooding. And what it remind -- reminds me of is the difficult thing we have in life where we have to make trade-offs in everything we face in life there are trade-offs. I was sitting on a panel with another elected official once and she was talking about the chapel challenge of being a working mother. She was a judge and she said some days I'm a great judge but I'm a crappy mom and some days I'm a great mom but I'm a crappy judge. And juggling both of those and how difficult it was, and I feel like that is where we are with this. We cannot have this utopian vision that everybody is going to be happy with every single line in this code. Because I know at the end of the day every single one of us wants -- does not want a declining African-American population. It's embarrassing.

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Does not want families displaced. Does not want families leaving. Does not want schools closing. We cannot live in this dream world. We have to understand that these are very difficult decisions for every single one of us, and just like I wish I could be the -- every day I could be the person councilmember and the perfect mom and the perfect wife and the perfect friend, I have to make trade-offs, and that's what we've had to do in this case, and that's why I know we have to keep moving forward. It's been eight years. We need to stop waiting.

>> Mayor Adler: Anybody else want to address? Closing statement? So then I'll close us out before we --

>> Kitchen: I'll say something, I guess -- do you want to be last?

>> Mayor Adler: Yes.

>> Kitchen: Okay. All right. Well, I'll be short. I just think -- I'll just say a few things. And that is, first off, I

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want to support this code. I've always wanted to support this code. I think we all do. I think I want to be able to vote for it. I cannot do that yet, and it's not because I want to slow things down. I'm not interested in slowing things down. I'm interested in getting things right. And I'm interested in finding a consensus because I think it's important for trust in the community. I also think it's important that we don't miss the opportunity of hearing from and listening to citizens and I also think it's important that we listen to each other, which I think we've been doing. But I think we need to do more of it. So I really think we're stronger as a community and as a dais if we get closer to consensus. And so I am heartened by some of the conversations that we've had today about an interest in finding a path that we can get closer to a code that works for the

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whole community, and I want us to work on that between now and third reading. So I also want to say that I can't vote -- the reason I did not -- let me say a couple of other things. I think there's a lot that we have in common. I think we all know that we need a land development code because we need better tools. I think that we have agreed that we need to increase housing and we need to do it along our major corridors because that's where we have the opportunity for new development that we can more easily serve by transit, and that's where we can build best. We can also use our imagine Austin regional centers because those really present opportunities, and I don't want thank councilmember pool for bringing up the north burnet gateway. That's really areas to create more housing. And I think we all agree that we need more housing and we need more housing types that are affordable.

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And while I understand that we have choices to make, I don't think we're there yet. I think we can do better than what we've done so far, and I don't think that we have to -- I don't think that we have to make choices that don't get us all of what we're trying to get. I don't think we should give up yet on that. So I still am concerned that we may have -- still have some unintended consequences. One of the things I'm most concerned about is accelerating the loss of older, more affordable housing for renters and families. I'm concerned that we're not providing for new development in the right places at the right price. I'm concerned that we haven't -- that we haven't looked deeply enough at planning for the

necessary infrastructure. I was -- we need to if we're going to be successful with transition Zones and missing

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middle. We've got to pay attention to and everybody to make sure we've got sidewalks, we've got street improvements, we've got drainage, we have other infrastructure. And we -- and I don't want to just assume that we're going to get that later. We need to think about how we're going to do that now. I also think that we need to think about our timing for how we increase our entitlements. We don't want to destabilize neighborhoods that are gentrifying or fast losing their older populations. We don't want to accelerate the loss of affordable housing. And I think that mapping in a one size fits all approach is not a best practice for planning, and I think that we need a path towards more context sensitive planning. That doesn't mean that we don't do anything now. That means we do what we can right now but then create the path that's going to get us to a place where we're

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looking -- we have more sensitive consideration of the location or the context. And that we also don't miss the opportunity to learn from and get the ideas of our citizens and the public. I don't want to risk the loss of public trust. I think that that has consequences for us. So the bottom line for me is that I think we have some more work to do. I'm hoping that we can reach a better consensus with the community and with ourselves. I want to be able to vote for this on third reading. But I -- the bottom line for me is that we have to make sure we understand the impact of what we're doing. I think too much is at stake and we risk losing existing affordable housing when we can't afford to do that. We need to listen to the community and plan with the people who know their communities and are the most impacted by changes. So as I said before at the beginning, I am heartened by the conversation that we've had today. I do think there's a path with some more work that we

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can get to a place where we can have a greater level of agreement and we can build consensus and trust with the community, and I really want to spend our time doing that over the next four, five, six weeks that we have before third reading.

>> Mayor Adler: Anyone else? Councilmember Flannigan.

>> Flannigan: I'll be brief. I want to thank staff. So much hard work. Eight years, as the mayor pro tem said. All the council staffs, the community for working with the council so far. It is exciting and nerve racking to be close to the end. I am encouraged by how the meeting ended today because I think even

though there have been rough patches in this process, I think we all want to get to a place where we can feel comfortable. That becomes more challenging when there are implications made about

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motivations. It is challenging to say that we want to find consensus but then attack the motivations of your colleagues. It is challenging to say that this is a thing -- that this process does one size fits all but then say we put the density all in one part of town. It is challenging when we say we want housing in all areas but then be upset when we make a change that applies in all areas. It is challenging when we are saying two things that cannot both be true. Mayor pro tem, I want to thank you for your remarks. It is essentially what I had in my mind, but I think you said it more eloquent than I. I want to encourage us to be thoughtful. If there are press conferences planned that did not work the last time around for any of us that tried that. I hope we're not repeating mistakes by saying things in press conferences that are very difficult to take back.

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I want us to work together. Consensus doesn't mean everybody gets what they want. Consensus means compromise. I have made compromises. We all have made compromises to this end. I worry that this code doesn't go far enough. There have been problems in the city, affordability, gentrification, taxes, climate change. The closer we get to the status quo, the closer we get to the thing that causes and maintains those problems. But I maintain that we can get there. I will continue belief that we can get there as long as we all stay committed to that.

>> Mayor Adler: Councilmember Renteria.

>> Renteria: Yes. I also want to thank staff. Y'all did a wonderful job. I know it was, you know, a little -- at a time real pressing and tiring, but, you know, y'all kept it up and I really want to thank you and all of y'all. And my staff also. You know, my area that

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the -- east Austin, Cesar Chavez contact team was the first small area planning team, and, you know, we've been waiting 20 years for this plan to happen. You know, people might say we're rushing it, but we've been working at it for 20 years. And, you know, we're finally -- I think, you know, we can -- we can have a major plan amendment and have -- you know, most of our constituents want to just move forward and remain in a better east and south Austin. We can refine the process. That would be great. And let's move on. So I really want to thank all of y'all, my colleagues, and thank you all.

>> Mayor Adler: Anyone else want to speak? Councilmember Casar.

>> Casar: I want to speak just to two things. One, again, I need to thank of course the city staff but also my own staff who I know have been -- Spencer and I were talking about about how he came on two years ago

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when draft three came out so I think by my calculation it was probably about three years ago we've been reading and learning this text, all of these -- this thousand plus pages for just over three years or about three years. And my staff have really helped me and they've mastered it, so I appreciate them back there. And I want to talk about, you know, how we work together. I think it's -- it feels superfluous but I want to express why the everybody on the first reading and second reading has contributed and made this thing better and that through disagreements the final product does improve. I often -- I talk all the time about how I'm honored to serve on this body because every single person serving on this body and makes their amendments and makes their speeches and pushes hard, and we stay late because everybody just cares so much and believes

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that what they're trying to do is better for the environment, what they're trying to do is better for getting people around or having people live here. So I think that that's everybody's base motivation, and I'm going to do my best to keep that top of mind and make sure that the way that I work on this has that as the baseline assumption and I know that's what we're all working towards. So I just want to thank you guys.

>> Mayor Adler: Any further statements from anybody? Then I'm going to close and then adjourn the meeting. I want to add my thanks to you guys. Incredible work getting us to this place after so many false starts over eight years to get there. I appreciate that you have built on the work that's been done over the last eight years. So many of the conversations we had today were conversations that I remember watching six years ago, participating in four years ago. I want to thank my staff but

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not only my staff, I want to thank everybody else's staff. I have been in this building on weekends and seen other staffs working, and I know where a lot of this is coming from. I want to talk about my hope with respect to the proposal that -- hope that was gonna be delivered to us in a few days. Because I want you to know that I -- that I choose to have hope and belief that maybe you will be able to present a path forward for us. Because I would like to find one. It's pretty apparent that there are seven people on



this council that are ready to vote to pass the code, and the votes are there and able to pass that. It's a challenge to be able to go to a voting majority

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and suggest an alternate path that they would take. But by evidence of the offer that I made last night, I arraignment -- I remain the optimist and in search of a path that will be able to have us bring more people together than that. I recognize that it's going to be hard because you're going to have to come up with a reason or multiple reasons for that majority to compromise in ways that they don't have to in order to be able to pass a code. My hope is that as you do that, as we all talk with each other, we'll recognize that we have fundamental differences with respect to how results should be achieved. We can all be -- and we are all invested in the

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amendments that we bring that are not adopted even though we believe their truth to be self-evident and are so right. But yet we run into people who look at it and say that in their view the exact opposite is right. Oftentimes achieving -- too oftentimes -- and in a common attempt to achieve the exact same purpose. And we see that a lot on this. I think it's real important to recognize that none of us have the market on the truth and what's right. And we're all trying to serve our best interests. I think it's important that we don't demonize one another or the people who

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demonize the opinions that we have. I get approached a lot more and have been by people in nonprofit organizations and neighborhood associations and environmental groups and housing groups than I do by anybody who is coming me in a professional capacity. It's not even close. You know, it's probably on the order of ten to one or more. Because there is thousands of people in this community that want us to get this done. Want us to go further than where we are right now. Just as I recognize there are thousands of people who have not. Yours is a tough challenge because it comes in the context of a proposition J that was passed by a community that said to the council we're going to trust you to do this and to get this done. It comes after elections in November where candidates were running on promises to

[9:40:21 PM]

do the land development code and to get it done. But I think that the tenor in what we hear today, I hope -- I hope you can build on, recognizing that most of the people on this dais believe that we have not only honored by celebrating direction toward compact and connected efforts in the city, not only honored but have built upon a code that does more for affordability than any code that any of us have ever seen from any city anywhere that this code does that. But I do believe that on this panel we all recognize that there's a desire for us to compromise things that we believe to be right in order to see if there's an opportunity for us to find

[9:41:22 PM]

that sweet spot. And I hope that we do. I'm going to adjourn the meeting at 9:41 --

>> Kitchen: Mayor, I think it's okay for me to speak. I think you should allow me to speak briefly.

>> Mayor Adler: The problem with that is everybody gets a chance to speak again.

>> Kitchen: Maybe we need to talk more.

>> Mayor Adler: Let's put it to a vote. I am recommending that we adjourn the meeting. Does anybody want to challenge that? Anybody want to put that to a vote? Those in favor of not adjourning the meeting and letting everybody speak again please raise your hand.

>> Kitchen: Mayor, how can we --

>> Mayor Adler: Councilmember tovo says that. Anybody else? Councilmember alter --

>> Pool: Is it a point of personal privilege you're asking for --

>> Mayor Adler: It's a question of when we adjourn. I gave everybody a chance to speak. I said I was going to speak last. Okay? We don't have the votes to do that. At 9:41 the meeting is adjourned.

[Adjourned]