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A P P E A R A N C E S:

Los Gatos Planning Commissioners:
Tom O'Donnell, Chair
D. Michael Kane, Vice Chair
Mary Badame
Kendra Burch
Melanie Hanssen
Matthew Hudes
Kathryn Janoff

Town Manager: Laurel Prevetti

Community Development Director: Joel Paulson

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P R O C E E D I N G S :

COMMISSIONER O'DONNELL: I think we can move on to Item 2, which is the Alberto Way matter. On the last meeting we closed the meeting to public comment. We invited any written comment, and we have received some written comment. What we're going to do this evening is have a discussion between the members of the Planning Commission on their thoughts, and I would assume at the end of those discussions we'll have a motion.

First, I guess I should say Commissioner Badame, because of her proximity to the project, is going to recuse herself and will come back for the next item.

COMMISSIONER BADAME: That is correct. My residence is located within 500' of the project application. I will return.

CHAIR O'DONNELL: We'll see you hopefully soon. I will simply ask now for people, whoever wants to start with the comments, I would imagine we all have some comments, so who would like to... Well, what we can do, if you don't mind, we can go down the line if you like, so I can start with Commissioner Hudes.

1 COMMISSIONER HUDES: Thank you. Knew I have a few
2 comments.

3 CHAIR O'DONNELL: When did you not?

4 COMMISSIONER HUDES: I wanted to remark on the
5 information that I requested about the widening of Alberto
6 Way, and this information was provided, but I was unclear.
7 We never received a before and after diagram showing how
8 much. We received some textual information, and in that
9 information it raised a concern that the widening, which
10 was represented to be, I think, 3' approximately eventually
11 tapers back to the original property line, and the
12 eventually looked to me the way that the text description
13 proceeded, that that was referring to the entrance to
14 Alberto Way, where I have the most concerns about safety.

15 I know I expressed this in the very first hearing
16 that we had on the subject, that we have a population that
17 lives on Alberto Way that occasionally avail themselves to
18 the use of emergency services and vehicles, and that we
19 also have a situation where we get gridlock on Highway 9,
20 and as far as I can see, that gridlock situation was never
21 studied as part of the traffic analysis. The dates on which
22 the traffic was observed were not at the times when, at
23 least as far as I can tell, and there were no words in the
24
25

1 traffic exhibit about the gridlock traffic that has
2 occurred there.

3 So my concern goes beyond convenience with regard
4 to traffic, it goes to safety and the ability of an
5 emergency vehicle to turn onto Alberto Way, and I did not
6 find the information provided by the Applicant entirely
7 satisfying as to that point in terms of how much wider it
8 would be and whether emergency vehicles would be able to
9 make that kind of access, and so those concerns remain for
10 me.

11
12 CHAIR O'DONNELL: Thank you. Moving down the
13 line.

14 COMMISSIONER HANSEN: I spent a lot of time over
15 the last few weeks reading through all of our previous
16 minutes and watching the tapes and whatnot, and so I was
17 trying to distill this down to what the essential issues
18 were, and it seemed like in terms of the comments that we
19 had made that the main issues relate to four areas at the
20 moment: size, traffic—and some of these are interrelated—
21 the geology, the garage, and then the views.

22 It kind of occurred to me that because we didn't
23 approve the A&S in the original hearing decision in Ma, we
24 didn't go through the EIR, but I went back and read through
25

1 the EIR, and basically the EIR has found that there are no
2 impacts in most of these areas that can't be mitigated.

3 And so then I was kind of left with there's also
4 the issue of we have to think of it in terms of comply with
5 the General Plan and also with our Commercial Design
6 Guidelines, so I wonder about how the best way it is to go
7 about looking at the EIR, because it has so much
8 interrelationship with the rest of the project, just for
9 example in terms of size. I thought about it and I was like
10 well everybody would like it to be smaller, of course, but
11 there isn't any standard for size other than the lot
12 coverage and the height of it.

14 And then if you're worried about the size, what
15 is the impact of size, and to me it would be in terms of
16 the views and of the traffic, and those are both covered in
17 the EIR, and you can disagree with the methodology of the
18 EIR, but I don't think that's our jurisdiction. My
19 recollection is when we've had EIRs before what we can
20 really comment on is whether or not we think the mitigation
21 is appropriate. So that's a question I have.

22 So then I went back to this whole issue of size,
23 and we've had a lot more requests for having objective
24 standards, and I think Council was looking for us to come
25 up with a number that related to something, and so at the

1 moment the proposal is based on the reduced alternative
2 that's in the EIR, and we can decide whatever that number
3 is.

4 But I also had a question about how to think
5 about neighborhood, because clearly the people on Alberto
6 Way think that this is incompatible with the neighborhood,
7 but we don't have a neighborhood analysis standard for
8 commercial like we do for residential, and so I wondered
9 about the right way to think about that.

10 I know in the past we, for example, had the
11 hearings on the office building on Winchester, and even
12 though that building is twice as big as the next commercial
13 building down the street it didn't factor into the ultimate
14 decision by Council in terms of whether or not to approve
15 the project.

16 And also during the Council hearings on this
17 particular project the Council in particular asked about
18 the sizes of the commercial buildings that are there in the
19 neighborhood on Alberto Way and also across the street, but
20 they didn't necessarily give direction that you need to
21 reduce the size to the next biggest building in the
22 neighborhood, so another question I have is about how to
23 think about the neighborhood. There's the aspect of this
24 being on a very small street, but it's also bordering a
25

1 major highway, and according to the EIR 40% of all the
2 traffic that's going to go in and out of the facility is
3 going to go onto Highway 17, so from that perspective it's
4 in a different kind of neighborhood and it's more related
5 to downtown, even though it's on Alberto Way.

6 So those are the issues that I have in my mind in
7 terms of questions, and what we've got to resolve is these
8 four issues: the size, the geology, the views, and the
9 traffic, and whether or not there's anything else we can do
10 to make it more acceptable, or whether it's good enough
11 right now.

12 CHAIR O'DONNELL: Let me say this. There may be
13 some questions here that we would like to direct to Staff,
14 and we can certainly do that, and I think we will. But
15 there's also the flow at the moment is pretty good, it's
16 moving along, which you should not assume means we're not
17 going to come back to you and you won't have an opportunity
18 to direct questions to Staff, because you will. So I just
19 want to make that clear, because I've heard some questions
20 from both of you, and so we're not ignoring those.
21 Commissioner Janoff.

22 COMMISSIONER JANOFF: I think the main concerns
23 for me boil down to essentially the same as my fellow
24 commissioners so far, but this is what I would call an
25

1 overly constrained problem. We've got the neighborhood on
2 one side requesting a smaller footprint and not a two-story
3 subterranean garage, and you've got the developer
4 requesting just the opposite.

5 It seems to me that that's the real crux of the
6 issue, because if you did reduce the size of the building,
7 then you would reduce the amount of traffic that comes in.
8 It may not be to the level that the residents would prefer,
9 but it also seems clear that the Town Council has accepted
10 the traffic study and is satisfied that there won't be
11 significant impact, so that leaves us in a bit of a
12 quandary.
13

14 Well, one of the speakers last meeting indicated
15 that they would be amenable to a larger footprint above
16 ground if we could make some other changes, so can you
17 reduce the subterranean footprint, or could you create a
18 larger footprint above ground and reduce the height of the
19 building somewhat? I'm not sure what that would do with
20 regard to size and overall square footage.

21 But one of the key things that comes through at
22 every single neighbor's comments is the views, and how
23 important those views are to those neighbors. My guess, and
24 I could be wrong, is that the neighbors will be willing to
25 accept the subterranean two-story garage—and I'm putting

1 ideas in your heads that I know you've objected to—if the
2 footprint could reflect a reduced height so that the views
3 of the neighborhood could be preserved.

4 My sense is that there's a bit of intractability
5 on both sides, and I think in order for us to get to a
6 decision a little bit has to give somewhere, so those would
7 be the two areas that I'd like to see discussion around.

8 CHAIR O'DONNELL: All right, thank you.
9 Commissioner Burch.

10 COMMISSIONER BURCH: Not to repeat anything that
11 my fellow commissioners said, I do know that we've been
12 tasked by Council to be more factual and objective in the
13 items that we're discussing, and I know that there are a
14 few issues that came up last time that have been a
15 continued concern.

16 I also would be curious to hear what Staff has to
17 say about the traffic and the EIR, because it's my
18 understanding that ship has sailed. I believe the EIR is a
19 validated final item and they've met the mitigation
20 requirements, but I'll be interested to hear Staff's
21 comments when we get to that point.

22 As far as the parking garage, I'm actually less
23 concerned about the levels of the parking garage. We've
24 been attempting to encourage this for a very long time to
25

1 keep cars off ground level, and having a background and I
2 understand the water displacement, so I actually am
3 appreciative of the fact of keeping cars off the street;
4 there's no parking already on the street.

5 So then it starts coming down more to items such
6 as mass, neighborhood compatibility, and views, and we look
7 to our residential and our Town guidelines. We speak of the
8 views a lot, and when I look back at the item that I've
9 heard that I feel like perhaps we can speak to the best
10 tonight, it's views. But again, I'm going to ask a little
11 bit of Staff on how we analyze that, because I believe the
12 size of the buildings have already been deemed relatively
13 appropriate by Council, based on my last viewing of the
14 Council's hearing and the recommendations of the mayor, so
15 I'm a little concerned we're at that point in this
16 conversation, so there are a couple of comments I'd like
17 back from Staff when it's time.

18
19 CHAIR O'DONNELL: Thank you. Vice Chair Kane.

20 VICE CHAIR KANE: I couldn't say it much better
21 than Commissioner Hanssen did in identifying the issues.
22 Size, traffic, geology, views.

23 I've tried to understand the geology, and I'll
24 defer to Commissioner Burch and other others who know
25 better. That's just not simply an issue for me at this

1 time, having read and reread what I thought maybe I
2 understood.

3 But size remains an issue, and if size could be
4 addressed in the way I might like it to be, traffic and
5 views might be addressed as well. But as it is right now,
6 I've gone through the Town Code, five sections I can read
7 tonight, I've gone through the General Plan, which if you
8 read this late at night it brings a tear to your eye; it's
9 really a passionate document, and over and over and over it
10 talks about protecting and preserving. While we need
11 business development, it needs to be within the context of
12 all of these provisions designed to protect and preserve
13 the Town.
14

15 In the Commercial Design Guidelines it's a
16 condensed version of what's all over the General Plan, and
17 so much of the General Plan, "Preserve and enhance existing
18 character and place." It even talks about our seniors in
19 more than one sense, that we should protect the people who
20 live here. It talks about infill projects, limit it to do
21 this and do that.

22 I think we get tied up in the science of numbers,
23 you know, 3x5x2x6, and because the land is big enough you
24 can put in a four-story building. No, you can't, because
25 the Town Code, the General Plan, and Commercial Guidelines

1 prohibit it with rather clear and compelling, albeit
2 subjective, standards. When you've got subjective standards
3 you've got to really make a good case, and I think the 300
4 people have made a good case. I'm not saying it's not in
5 compliance with these things; 300 people have written us
6 impassioned letters over and over to preserve their quality
7 of life.

8
9 My view of the Environmental Impact Report is
10 that it is not sine qua non, it's a go-no-go, so the
11 Environmental Impact Report, if accepted, simply says
12 nothing it's doing can be mitigated; it doesn't say it gets
13 approval.

14 I asked at our last meeting to, again quoting
15 Denzel Washington, "Talk to me like a six year old," and
16 explain to me what a Class A building is and why is there
17 such a fuss? The Applicant, or the Appellant, sent Jennifer
18 Armer a letter and copied me, and it quotes an authority
19 they refer to as "42," and it says, "Class A office
20 definition by 42 floors," so I guess they're an authority
21 on defining such things. I want to read just a part of it.

22 "Class A buildings are coveted, highly-sought
23 spaces of significant size, usually in a central location.
24 In the Central Bus District this could mean 250,000 square
25

1 feet or more. In a suburban location or small metropolitan
2 area, a 50,000 square foot building might qualify."

3 All right, I've got a definition now. So I then
4 look at the 72,000 as a maybe a case is being made for
5 fiscal necessity, and the profitability of a project is not
6 my department—I don't think, I'll stand corrected—but
7 whether or not it makes money, and do we sell the project
8 because it makes money and give up all of these words on
9 protecting and preserving and people that are concerned? I
10 can't do that. I need to know that in here there's
11 something that says they can't come down below 72,000, and
12 the document they've given me said in a suburban or smaller
13 location a 50,000 square foot building might qualify.
14 That's their letter, not mine. Mr. Thaden (phonetic) and
15 Mr. Riley (phonetic), experts, both state that more than
16 95% of Class A office space provides larger floor plates
17 ranging from 35,000 to 40,000 square feet. That's 95%.
18 Cynically I look at that and say the other 5% in small
19 suburban locations, that would kind of tend of make sense.

21 I'm telling you what my issues are, and I'm
22 telling you that I've read and reread the letters from the,
23 let's call them "the 300," the 300 Spartans, and they can't
24 be ignored; they're very difficult to ignore.

1 I watched the Town Council meeting, the one that
2 we're referring to, what was that, December 13th or
3 something, and I watched the end of it twice. A motion was
4 made with four points on it: square footage, trees,
5 something else and something else, and it failed. Another
6 motion was made on square footage, trees, and something
7 else, and it failed. A third motion was made to say that
8 the appeal was being granted, specific to new information
9 and send it back to the Town Council.
10

11 (Inaudible) meeting last time we discussed this,
12 that was interpreted to mean—I believe I'm correct—as de
13 novo, so we take this from scratch, and in taking this from
14 scratch I look at the 92,000 to the 86,000 to the 72,000,
15 74,000, and I feel golly gee, maybe there's some more room
16 to go here. And I did question why the offer of 72,260
17 coincidentally matched the exact number in the Draft EIR. I
18 didn't get a very good answer to that, so I feel it's an
19 odd coincidence and maybe we have some room to go, and
20 maybe if we work on that size we can get an issue that
21 deals with traffic and views and the safety and the virtual
22 panic from the 300 people who live here. I got a letter
23 articulating that there's development on Highway 9 and
24 there's development in the back, and these 300 people are
25 caught in between those and they're both growing, and

1 that's just simply undeniable; I gotta find a way around
2 that. Thank you for the time.

3 CHAIR O'DONNELL: Thank you. Let me look at this.
4 My comment, I guess, is this. We have to decide the
5 Architecture and Site Application, the Conditional Use
6 Permit, and the Environmental Impact Report.

7 So the Environmental Impact Report, if I read
8 this correctly, has not been approved or adopted, but we
9 would do that. So if you find something fundamentally wrong
10 with the EIR, you just wouldn't approve the EIR. I find
11 nothing fundamentally wrong with the EIR.
12

13 We've all sat on this before, and I know in a
14 perfect world we would make a substantial reduction in
15 this. Having observed what the Council seems to want, I
16 find myself with two choices here. One can simply strike
17 out and come up with a number they're personally
18 comfortable with, or one can say if we assume that, as the
19 Council has said, the number used in the EIR, even though
20 it is just a number, but I read the Council to use that
21 number as a good number. If one assumes that the Council
22 thinks that is a good number, what is it we can do? Because
23 we can send something back to the Council that will not
24 help them, or we can send something back to the Council
25 that may help them, and what I see as helpful, would be if

1 we don't like something about the design, not the square
2 footage, but the design; or the height, again, not the
3 square footage. The developer has given us these numbers
4 and also has said—we have two or three letters from their
5 attorney—on the EIR and the impact of economics, unlike
6 many things, in an EIR economics are considered, i.e. is it
7 a feasible project.

8 So I guess I'm beginning to view what we could do
9 tonight of a profitable measure is to see if we could do
10 anything by way of dealing with either the design... Our Town
11 architect wrote two or three letters, not all of which have
12 been followed, his comments, many of which have been. Is
13 there anything we could do with the design that does not
14 reduce the square footage? Is there anything we can do with
15 the height—and the height has come down, I think it's 5',
16 further—that would help the views, but also at the end of
17 the day I would like to do something that would help the
18 Council and not have the Council simply disregard what
19 we've done, because I think if we do something helpful to
20 the people who live in that neighborhood, that will be
21 better than simply sending it back up again and having
22 something come down which is not as good as maybe what we
23 could do.

1 So I would hope that tonight we can try to come
2 up with something. Some of you will say, as I think Vice
3 Chair Kane has, he seems to be more definite in rejecting
4 the project. I am not. To the extent that we can make the
5 project better without rejecting it, personally, I think
6 that might be more helpful to everybody, so I throw that
7 out.

8 Now, what I'm going to ask at the moment is we
9 have a number of questions we wanted to ask Staff, and
10 unless somebody has a better suggestion, I'll start again
11 with Commissioner Hudes and see what his questions are,
12 then we'll go to Commissioner Hanssen, and so on. So
13 Commissioner Hudes.

14 COMMISSIONER HUDES: I had really two questions
15 of Staff. One gets to Vice Chair Kane's comment about
16 considering this as a de novo application. I've given some
17 thought to this, and I wanted to understand from the
18 attorney's perspective and from Staff's perspective this
19 process a little bit better.

20 So we denied this, it was appealed, it went to
21 Council. Council was presented with new information and
22 remanded it back to us, and in doing so they deliberated
23 and they asked that their deliberation be part of the
24 record. Is it my understanding that we should consider
25

1 those deliberations that were not necessarily part of the
2 formal motion, but were part of the discussion in terms of
3 the parameters that we have in looking at the project?

4 That's a question for Staff.

5 ROBERT SCHULTZ: I saw his hand up, so I didn't
6 know if he...

7 CHAIR O'DONNELL: Well, I think the question is
8 directed to you and anybody in Staff that wants to join in.

9 ROBERT SCHULTZ: It's a combination of both.
10 You're absolutely correct that the Council gave direction
11 and told you to review the deliberations that they had, and
12 that's been provided to you to look at, and so you're
13 supposed to take that into consideration as you move
14 through this just as the entire record... Even the previous
15 hearings are part of this record. You've heard already
16 testimony about going from 90,000 to 80,000 and now down to
17 70,000, so that's all part of your thought process as you
18 deliberate.

19 In the sense that as Commissioner Kane says, this
20 is de novo, and your hands are not tied to decide how you
21 want to rule on this project. The Council didn't say to
22 send it back and make sure you approve it, but they did say
23 to take into consideration their deliberations. It's the
24 same as if the Supreme Court of the United States says...or
25

1 the California Supreme Court sometimes remands it back to
2 the trial court to redo its ruling and take into
3 consideration the ruling that they've made when you now use
4 that as evidence to decide how you want to...

5 COMMISSIONER HUDES: Right, and we're not an
6 appellate court for the Council.

7 ROBERT SCHULTZ: It's a remand. They're the
8 appellate court.

9 COMMISSIONER HUDES: The other way around. And I
10 think it's also fair to the community at large for us to
11 respect the process and to take into account... Now, the
12 Council was not unanimous, but there were points that the
13 Council seemed to converge on, and so I reviewed both the
14 Council meetings to try to understand what some of those
15 points were, and some of them had to do with a significant
16 reduction in size. I think it had been proposed 4,000, but
17 I think we're seeing something more in the line of 8,400,
18 and we're seeing some other things in reaction to that
19 guidance that to me I need to think about where the Council
20 was in their deliberations as part of what we're doing in
21 the process, so I just wanted to make sure that it was okay
22 to do that and it made sense to do that.

23 I had a second question that's specific to the
24 width of Alberto Way, and my opening comment about this. Do
25

1 you know what the current and the proposed width of Alberto
2 Way is, particularly at the entrance area?

3 JENNIFER ARMER: I don't know those numbers off
4 the top of my head, but we do have Staff from our Public
5 Works Department. I also do believe that at your December
6 meeting, while you did close public comment in general, you
7 left it open for questions of the Applicant, and they do
8 have their consultants here as well, so I'm going to defer
9 and see if Staff would like to answer that.

10 CHAIR O'DONNELL: Wait, I want to get this clear.
11 My understanding is nobody is going to speak, because if we
12 allow... We invited written comments. I would not personally
13 feel comfortable about allowing one side to make oral
14 comments and not the other, and Lord knows, I don't think
15 we want to reopen the whole thing. That's just my feeling.
16 I'm not offering a legal opinion; I'll defer to Counsel for
17 that.
18

19 ROBERT SCHULTZ: Specifically at your last
20 meeting though you were still in the question phase of the
21 Applicant, so you were still able to do that. They can't
22 make any closing statements, but they could answer your
23 specific questions, because that's where you were at. But
24 if you don't feel comfortable with that, the Chair and
25 Commission, then they would not.

1 CHAIR O'DONNELL: I'm just one person, so if the
2 balance of the commissioners would want to do that, I would
3 of course...

4 COMMISSIONER HUDES: I don't want to take the
5 Commission in a whole direction. I had assumed we were
6 going to ask some questions to follow up. I could direct
7 them to Staff, if the rest of the Commission would...

8 CHAIR O'DONNELL: I guess what I don't understand
9 is we have drawings. We also have a proposal. The drawings
10 did not show the removal of the bend in the road, as I
11 understand it, and then there was a proposal made to do
12 that, and I think it was 980-something square foot
13 dedication or conveyance, I don't know which, but a portion
14 of the 980 square feet to show how it cuts off the curve,
15 but do we have a drawing showing how that 980 square feet
16 comes out?
17

18 JENNIFER ARMER: Yes, Sheet A-1.01 does show the
19 right-of-way width. After the dedication would be 63 feet
20 wide. We've got a 10' lane, a 5' bike lane, and then a
21 second 10' lane for the right turn that's being show there.

22 CHAIR O'DONNELL: Let me make this suggestion.
23 You're getting a lot of information fairly quickly. We're
24 not through, and if at the end of our questions you want to
25

1 go back to that, but I would invite you to spend a little
2 time to look at it, unless you don't need any more time.

3 COMMISSIONER HUDES: No, I probably do need some
4 time and some questions. I tried to do it with my little
5 ruler, but these have been reduced and I couldn't get to
6 the actual size. I was trying to understand how that
7 relates to the width of a normal vehicle and an emergency
8 vehicle, and I wanted to go through that either with Staff
9 or with the Applicant's experts.

10
11 CHAIR O'DONNELL: All right, well I guess what
12 I'm asking you is what you've just heard, do you need more
13 than that?

14 COMMISSIONER HUDES: I had some other questions
15 on it.

16 CHAIR O'DONNELL: I don't mean other questions, I
17 mean about that specifically. If you do, we can pursue
18 that. We could ask other Staff on it, or we can defer and
19 come back later. What would you like to do?

20 COMMISSIONER HUDES: Well, I'd prefer to ask
21 these questions, and if Staff can answer them, great, and
22 if not, then...

23 CHAIR O'DONNELL: And you're not satisfied then
24 yet with the answer you just heard?
25

1 COMMISSIONER HUDES: Yeah, it isn't helpful
2 enough for me to make a determination.

3 CHAIR O'DONNELL: What specifically would you
4 like to know then?

5 COMMISSIONER HUDES: I would like to know with
6 63', how does that relate to the 25' that was just given?

7 JENNIFER ARMER: The 25' in terms of...

8 COMMISSIONER HUDES: Ten plus five plus ten.

9 JENNIFER ARMER: The 65' right-of-way, that's the
10 width of the land that would be owned by the Town, but that
11 does also include sidewalks, the planter strip, and such,
12 on both sides of the street, plus that's just the
13 southbound Alberto Way, the lanes that I just discussed.
14 There is also a 16' wide lane going northbound on Alberto,
15 and then it looks like 12' for the sidewalk and planter on
16 the other side, and about 10' on the Alberto Way side.

17
18 One comment I would add in terms of the
19 straightening of the street. While there is still a curve,
20 I do believe that the width of the proposed dedication is
21 widest at the bend of the curve, so that it would actually
22 be straightened somewhat. It's not a constant width all the
23 way along the length of the dedication.

24 JOEL PAULSON: I would just offer that the sheet
25 that Ms. Armer referenced, I think it was A-1.01, the

1 actual roadway width is labeled as 41', so that would
2 include the two 10' lanes, the 5' in between those, as well
3 as the 16' lane on the other side. So the total roadway is
4 labeled as 41'.

5 COMMISSIONER HUDES: And that's currently. What
6 was the original proposal? How much did they widen the
7 roadway is what I'm getting at.

8 JOEL PAULSON: We'll look for that information.
9 I'm assuming it's 3' or less, given that the information...
10

11 COMMISSIONER HUDES: I was concerned that it was
12 zero, because of the way it was stated that in their letter
13 they state that it eventually tapers back to the original
14 property line.

15 JOEL PAULSON: I'll defer to Ms. Armer as well,
16 but I think if you look at the sheet A-1.00, which is just
17 before the sheet we were just talking about, going from
18 Highway 9 north you'll notice a little crosshatch area, and
19 obviously the...

20 CHAIR O'DONNELL: Hang on for a second. He's
21 still trying to find the...

22 JOEL PAULSON: Sure.

23 COMMISSIONER HUDES: Is it toward the back?

24 JOEL PAULSON: It is the sheet right before the
25 one we were just speaking of, so it's A-1.00. Ms. Armer

1 will try to pull that sheet out and put that up on the
2 overhead.

3 COMMISSIONER HUDES: Right. This is the one I put
4 my little ruler on.

5 CHAIR O'DONNELL: Hold on for a second, because
6 now she's trying to get it on the board.

7 JENNIFER ARMER: It looks like it is the fifth
8 sheet in the plan set.

9 CHAIR O'DONNELL: You can walk over to the board
10 if you wish; it's much larger there.

11 COMMISSIONER HUDES: Okay, I'm on the same page.

12 CHAIR O'DONNELL: Okay. So are you following? Go
13 ahead.

14 JOEL PAULSON: Ms. Armer, if you could grab the
15 handheld mick and you can point that area out.

16 JENNIFER ARMER: So you can see that it is widest
17 at this point here at the sharpest bend of the curve, and
18 so it's a 3'-6" width of dedication. You can see that it
19 narrows as we get down closer to the property line on this
20 side towards the residential neighborhood. As you go this
21 way it also narrows some, but it does extend and stay. At
22 this location it's at 2'-9", so it does include to 3'
23 dedication all the way up to the intersection, which allows
24 for the new bike lane and bike box that's proposed.
25

1 COMMISSIONER HUDES: I guess the question is with
2 regard to emergency vehicles does that help an emergency
3 vehicle get into that street over the way the existing
4 condition is?

5 JENNIFER ARMER: The Fire Department has looked
6 at the proposed project and they have no concerns about
7 access.

8 COMMISSIONER HUDES: Okay, but the question is
9 has this improved that situation with this dedication?
10

11 JENNIFER ARMER: I believe that the area for the
12 dedication allows for that free right turn, which may ease
13 traffic flow because it extends down Alberto Way; it also
14 does have the bike lane and the width of all of the lanes
15 are sufficient for standard vehicles and emergency vehicle
16 access.

17 COMMISSIONER HUDES: Okay, thank you.

18 CHAIR O'DONNELL: Okay, again, may we move on and
19 you can come back if you have further questions?
20 Commissioner Hanssen.

21 COMMISSIONER HANSSEN: I had a few questions. The
22 question I asked when I was speaking about comments about
23 the project, and I think just for the benefit of everyone
24 in the audience as well, the criteria that we're supposed
25 to use for reviewing an EIR?

1 JENNIFER ARMER: I'm actually going to defer to
2 the environmental consultant and let him speak to that.

3 CHAIR O'DONNELL: Hold on one second. I don't
4 know if that's a legal question or a factual question,
5 because if it was a legal question, I think we should defer
6 to the lawyer.

7 COMMISSIONER HANSEN: I was thinking it was more
8 of a legal question.

9 CHAIR O'DONNELL: That's what I (inaudible), and
10 hopefully you know better as a lawyer.

11 COMMISSIONER HANSEN: Let me ask a more specific
12 question. What discretion does the Planning Commission have
13 in reviewing an EIR?
14

15 ROBERT SCHULTZ: I'm not sure I even understand
16 the question. What do you mean what is your discretion? You
17 either can approve the EIR or deny the EIR. Let me step
18 back a little bit and explain again. I think we've gone
19 through these steps, what the EIR is. It's really just a
20 document to provide you with knowledge. It's an
21 informational document to show you what the impacts are and
22 if there are significant impacts, then how they can be
23 mitigated. This CEQA document says that all the impacts can
24 be mitigated to less than significant, so you have to weigh
25 the evidence to determine whether there's any evidence

1 that's substantial that bring that into question, and then
2 potentially you could base your denial on that if you make
3 the findings.

4 A couple other things I would point out though.
5 Environmental impacts are not because of community angst
6 because they're upset about the project. It's not because
7 property values might go down. It can't be done by quality
8 of life.

9 And then the other part of that is you have to
10 look at the significant impacts caused by the project.
11 Because there's gridlock out there now and there might not
12 be emergency access available doesn't mean you can deny the
13 project. You have to look at what the impacts are from the
14 actual project, and that's what the EIR document does.

15 COMMISSIONER HANSSEN: Just a related question to
16 that. Supposing that we thought there was a better
17 mitigation for the solution, that could be a reason to
18 recommend a different mitigation or...

19 ROBERT SCHULTZ: Yes, you could attach additional
20 conditions, and I think you've kind of done that in the
21 Staff Report to show based on some of the evidence that has
22 been brought, there is additional mitigation measures that
23 need to be put in to address any impacts. Absolutely.
24
25

1 COMMISSIONER HANSSEN: So then this is the second
2 question on the EIR's Staff, then. In reading through the
3 section on the aesthetics, and I think the majority of the
4 Commissioners mentioned this on view, if you read the EIR
5 they basically say... I'm going to summarize what they said,
6 but it's along the lines of the views on Alberto Way right
7 now are obstructed without the project. They're obstructed
8 by trees, at least partially, and they're obstructed by the
9 35' tall three buildings that are there now, and so their
10 conclusion was that because our codes allow up to a 35'
11 building, that while there will be partial blockages of
12 parts of the view, that it's already blocked and so
13 therefore it's not significant.

15 I guess where I'm at in this thing is back to
16 approving the EIR. Now, if we agree that the EIR has no
17 impacts, what grounds do we have to say we need to change
18 the view? We have the General Plan and the Commercial
19 Design Guidelines, I understand that, but doesn't that
20 create a conflict?

21 JENNIFER ARMER: I think you hit it actually. You
22 do have those other documents. The Environmental Impact
23 Report is based on the regulations in CEQA, the California
24 Environmental Quality Act, and so those are the regulations
25 that are put in place by the state.

1 In addition to those, and the determination based
2 on those of no impact, we also have other guidance
3 documents. We have our General Plan, we have our Commercial
4 Design Guidelines, and so what you are considering tonight
5 is not just the EIR and its analysis, but also your
6 interpretation of our guidance documents.

7 JOEL PAULSON: I would just add as well that it's
8 important to understand—I know we've talked about this
9 before—Staff believes that the EIR is legally adequate and
10 meets the requirements of CEQA. The Town does not have any
11 objective thresholds of what diminishing of views would
12 constitute an environmental impact. The other documents you
13 could certify and the Environmental Impact Report does not
14 require you to approve a project. So I think it's important
15 to remember that there are certain thresholds, and these
16 were reviewed when the Environmental Impact Report was
17 prepared, and the determinations were that there are no
18 significant impacts that cannot be mitigated to a less than
19 significant level.
20

21 COMMISSIONER HANSSEN: Okay, good. Moving on, I
22 had a question about this Class A issue. I, too, read
23 through the information provided by the Applicant, and I
24 actually had found that website where they talked about the
25 42, whatever; I found that on my own before I read this and

1 I thought oh, but the thing is there's...so that the
2 Applicant had support from some realtors that are active in
3 leasing this kind of space that said that they're looking
4 for floor plates of 35,000 to 40,000. But I wondered if it
5 didn't depend on the number of employees as well? I mean
6 certainly because of amenities I can see why they need a
7 bigger floor plate. But I also thought that we probably had
8 some other Class A office space in Los Gatos, and we don't
9 have a lot of commercial buildings this large in Los Gatos.
10 I thought that I read that the building that was just
11 approved on Winchester is considered Class A, so that was
12 my question. Is that Class A, because that is much smaller?

14 JOEL PAULSON: I would say I think the Applicant
15 definitely intends on the Winchester project to create a
16 Class A project, and so other Commissioners may have some
17 additional input on Class A. Applicant has provided input
18 on that. There are a number of factors that go into those
19 numbers, both higher and lower, and site constraints
20 obviously would be one of those. Winchester has different
21 site constraints than this site. I would say that the most
22 recent Class A is probably the Netflix facility, which is
23 the 435,000 square feet, or 485,000, I can't remember, in
24 four buildings, so it really is site specific. This is what
25 the Applicant has provided for their justification

1 standpoint, and then from brokers who do deal with these
2 types of projects in the Valley, but ultimately it's up to
3 the Commission, with all of these topics, frankly, to make
4 a determination as to whether or not you believe this is
5 the appropriate project for this specific site.

6 COMMISSIONER HANSSEN: That's perfectly fine, so
7 that makes sense.

8 Then on the traffic, there was a discussion in
9 the Town Council meeting that didn't resolve itself into
10 any follow up per se, but this back to the traffic, and the
11 proposed improvements include a dedicated right turn lane,
12 and then there would be a shared left through lane, and the
13 topic came up about... And I was looking at some of the
14 drawings that some of the neighborhood people put up about
15 the people that would be coming into Alberto Way would be
16 coming probably off of Highway 17, taking a left onto
17 Alberto Way, and then taking a left in the property. People
18 on the other side of the street are going to be taking a
19 left while they're taking a left, and so I thought in the
20 morning...I wondered if even though the Traffic Impact
21 Analysis didn't flag it as a safety issue, if it wouldn't
22 be safer to have a dedicated left turn lane, and I thought
23 I remembered our Parks and Public Works Staff saying that
24 more parking spots would have to be given up, but I don't
25

1 remember exactly what. So I was just curious about that,
2 even though the Traffic Impact Analysis didn't flag that as
3 a safety issue, would it in fact be safer if we had a
4 dedicated turn lane in the middle, and then what would it
5 take to make that happen given the width of the street now?

6 JENNIFER ARMER: A bit of clarification. When
7 you're talking about a left turn lane, you mean a left turn
8 lane going into the project? Or a left turn at the
9 intersection with Highway 9?
10

11 COMMISSIONER HANSSEN: I was thinking of either a
12 dedicated left turn lane going out of Alberto Way, so there
13 would be a right turn lane...

14 JENNIFER ARMER: A throughway.

15 COMMISSIONER HANSSEN: There could be an either
16 and then an only left turn lane, but I wondered if it
17 wouldn't be better to have a two-way turn lane, although I
18 don't know if there's enough space to make that safe, so
19 that if people wouldn't be blocking traffic going through,
20 there would be like a dedicated turn lane in the middle.

21 That was a couple of ideas that I had thought of,
22 so I wondered if that would impact approval or would it be
23 worse, and what it would take to get that.

24 MIKE WEISS: Good evening, Commissioners. Mike
25 Weiss, Associate Engineer. In regard to adding a dedicated

1 left turn lane in addition to a through lane, it would
2 require additional right-of-way width. In regard to the
3 safety, I'm going to defer to our transportation
4 consultant, Colin Burgett from TJKM.

5 COLIN BURGETT: At that location the use of a
6 left turn lane would primarily be in the morning, so about
7 150 cars or so making left turns into the project during
8 the morning peak hour, and at that time the through volume
9 is very low, it would be less than 50 cars, so there just
10 isn't a high enough volume to warrant a separate left turn
11 lane and through lane based on that relatively low through
12 volume in the morning.
13

14 And in the afternoon the left turn volume can be
15 pretty low, only about 30 cars making a left turn into the
16 project, and so at that time the left turn volume in the
17 afternoon would be too low to warrant a left turn lane.

18 From a safety perspective, overall the volumes
19 are relatively low, and since more of the morning cars are
20 making a left turn it wouldn't be a situation that
21 sometimes occurs on other streets where the majority of
22 traffic is through traffic and they're surprised by a left
23 turn.
24

25 COMMISSIONER HANSSEN: So what you're saying is
it would really only be a issue in the morning, and then in

1 the afternoon the majority of the people coming out of the
2 project are going to be turning right onto Highway 9 and
3 getting on Highway 17 or going elsewhere.

4 COLIN BURGETT: Right.

5 COMMISSIONER HANSSEN: So it wouldn't be an
6 issue, and then in the morning you're not going to have a
7 lot of traffic going the other way.

8 COLIN BURGETT: Exactly.

9 COMMISSIONER HANSSEN: Okay, good, that helps a
10 lot. All right.

11 CHAIR O'DONNELL: I'm going to stop you for a
12 minute, because we're going to move back and forth I think
13 rather than spending too much time on one person, so
14 Commissioner Janoff.

15 COMMISSIONER JANOFF: I'm sort of fixated on the
16 idea of changing the footprint as proposed for the 74,000
17 and thinking about what Commissioner O'Donnell has said in
18 understanding that the Town Council is possibly interested
19 in and would approve a 74,000, how can we make that work,
20 at least footprint and parking-wise?
21

22 One of the questions I have is in Exhibit 31
23 there's a report from Caltrans, and on page 2 of that there
24 is a list of traffic demand management suggestions, and one
25 of the bullet points says a 10% vehicle parking reduction.

1 So my question is currently at 74,000 square feet
2 they are required to provide 298 parking spaces. Would the
3 Town be willing to impose a 10% vehicle parking reduction
4 on the property owner in order to reduce the number of
5 parking spaces required so it would give them a little more
6 flexibility, for instance, enlarging the footprint on the
7 surface, which eliminates some parking spaces? So a 10%
8 reduction from the 298 would drop the parking requirement
9 down to about 260 or so parking spaces, 260, 270.

10
11 JOEL PAULSON: If that's a decision that the
12 Commission wants to include in whatever decision they
13 ultimately make this evening, that's definitely possible. I
14 think in those types of scenarios you run the risk of then
15 having cars needing to park on the streets in the adjacent
16 neighborhood, which becomes challenging, so that would be
17 the one caution I would have.

18 The other would be removing that amount of spaces
19 then removes probably most of the surface parking that they
20 are proposing, and if I remember correctly there was a
21 suggestion, a request, to add surface parking, so it may
22 reduce some of the excavation if they chose to take that
23 out of the underground garage, but you still would have two
24 levels underground, and I don't know if our Parks and
25

1 Public Works Staff have any additional input on that.

2 Seeing none.

3 CHAIR O'DONNELL: (Inaudible).

4 COMMISSIONER BURCH: I don't at the moment. Every
5 question I come up with has been asked so far.

6 CHAIR O'DONNELL: Okay, Commissioner Burch has no
7 questions then. Vice Chair Kane.

8 VICE CHAIR KANE: As I said earlier, I watched
9 the Town Council deliberations twice last night, and I
10 started writing. Without using any names, unless you've
11 watched it, that there was concessions at Town Council and
12 not at the Planning Commission regarding new information,
13 essentially that this was de novo. It was mentioned to
14 incorporate the Town Council guidance. There was
15 disagreement with that, because there was disagreement with
16 the motion that had failed twice. Somebody said 4,000 feet,
17 somebody said no, not just 4,000 reduction, at least.
18 Somebody said 74,000, somebody said no, not an arbitrary
19 number. The maker of the motion said there are no specifics
20 in my motion. Reduce, but leave open the specifics.

22 New motion. Town Council, Planning Commission
23 should use all information available, and the mayor said
24 focus on objective criteria, not what shall be the numbers.
25 I mentioned earlier that one of the Town Council people

1 said it went from 92,000 to 87,000 to 74,000, and it was
2 said that when we got the Planning Commission, maybe then
3 we'd get their best shot, and I'd like to try to make a
4 best shot, and I've made a case for the Class A from 42 is
5 being 50,000; there was another number here at 55,000.

6 I want to go back and reiterate, when the Draft
7 EIR talked about 74,000 it said that such a reduction would
8 then likely allow for one underground garage, and I'm
9 thinking that certainly in the neighborhood of 55,000 we'd
10 be looking at the likelihood of one underground garage,
11 which alleviates a lot of people's concerns; could
12 alleviate traffic, could alleviate views, could alleviate
13 size.

14
15 So I don't know how we get there, Mr. Chairman,
16 but we've got room, and we've got a green light to make an
17 offer to make a motion in the fifties to see if we can get
18 a 55,000 Class A, which is what 42 says is possible, and
19 get a one-level garage, and in that way look for a
20 compromise to address the concerns of the neighborhood.
21 There will be increased traffic, there will be reduced
22 views, here will be this, there will be that, but it's
23 better than what we have right now if we can get a smaller
24 number.
25

1 CHAIR O'DONNELL: You can't compromise with
2 somebody who isn't present, and we've closed the public
3 comment, so there will be no compromise, unless you say
4 we've made a compromise, we've told you what you're going
5 to do, but that's probably not a compromise.

6 VICE CHAIR KANE: It's a good point, and I'm
7 confused.

8 CHAIR O'DONNELL: No, I'm not entering in a
9 dialogue...

10 VICE CHAIR KANE: When they asked us to give the
11 specific numbers, what did that mean?

12 CHAIR O'DONNELL: You are out of order and I've
13 asked you to be quiet for the moment. It's my turn, and I'm
14 going to talk. I don't think we can redo the project. If
15 you want to turn it down, you can turn it down. My view is
16 notwithstanding reading the tea leaves as to what the
17 Council wanted, the number they used was the number that I
18 would not have used, but it was a number from the EIR, and
19 I think some of the Councilpeople focused on that.

20 I guess my view is this project in many respects
21 is a very good project. The biggest objection of everybody
22 is it's too big, and I said that the first night we heard
23 this, and I was talking about a very substantial reduction.
24 As I read this over and over again, I am convinced that the
25

1 Applicant is saying only at a certain level can I afford
2 the improvements of this project. You want a different
3 project; maybe you'll have a different applicant. Maybe
4 you'll have a totally different project, but if you want
5 this project, I don't think you're going to go down to
6 50,000 or 55,000 square feet. You will have a totally
7 different... So if you want to turn the project down, we can
8 recommend that, and as I say, who knows what the Council
9 would do, but my feeling is the Council will not turn the
10 project down if reasonable steps are taken.
11

12 The only thing I can see as giving us a better
13 assurance of helping anyone on this project, and we have
14 not heard a word of it yet, is is there anything we can do
15 with either the height or the design without affecting in
16 any substantial way the square footage? Because the
17 Applicant is saying basically I need something like this
18 square footage, and if we do that then I can afford these
19 other things. We have not pursued, nor have we had a
20 suggestion tonight, is there anything else that could be
21 done and leave the square footage alone? Everybody may
22 disagree with that, but at the end of the day I think that
23 would be more helpful to the Council, and if it's more
24 helpful to the Council, it would be more helpful to
25 everybody sitting here, because it's not going to be

1 helpful to the neighbors to find out that a 74,000 square
2 feet project has been approved as proposed without any
3 input from us as to how we might make *that* project better.
4 Commissioner Janoff has her hand up; maybe she can help me
5 there.

6 COMMISSIONER JANOFF: I have some ideas,
7 Commissioner. I just wanted to go back to Commissioner
8 Kane's question. If I back calculate the amount of square
9 footage that would be possible, given a single-story
10 underground garage, plus above ground parking, I'm just
11 using the structure that they currently have proposed. It's
12 137, I believe, on the first floor of the underground, plus
13 32 surface spaces, so that's 169. If you divide the 74 by
14 the number of parking spaces they're proposing, which is
15 according to the Town requirement, it gives you a certain
16 number. Multiply that number by 169. The largest building
17 they could create with the current single-story
18 subterranean garage and the aboveground 32 spaces is about
19 45,000 square feet, so it's small, and I'm guessing that
20 might be unacceptably small to the developer. Maybe great
21 for the neighbors, but that's what I'm calculating.

22 So, again, the question is how can we make this
23 work? Now, in the first proposal that the developer
24 proposed there were two buildings, they were approximately
25

1 45,000 square feet each, which means they had floor plates
2 of less than 25,000 square feet, so a attractiveness of
3 25,000 square foot plate was good then and I'm assuming
4 it's still good now.

5 You've got Class A buildings all over town, all
6 over the county, all over the state, where tenants are
7 leasing anywhere from the entire floor to a couple thousand
8 square feet, so the size of the plate per se isn't a Class
9 A requirement. Desirable perhaps from building standpoint
10 or development standpoint because you can make more space
11 and create more money downstream, but it's the amenities,
12 it's are you providing an in-house drycleaner, a gym for
13 the employees, a café for people coming through? Are your
14 materials of construction of a very high quality? That's
15 what defines Class A, and if you look at the Class B
16 buildings that are going through their refurbishment,
17 they're not adding square footage, they're adding
18 amenities, they're adding those things that I just talked
19 about, so I would respectfully suggest that the 37,000 or
20 the 35,000 square foot plate is not necessarily for a Class
21 A building.
22

23 Having said that, there's no doubt in my mind
24 that you can create a 63,000 square foot building to a
25 72,000 square foot building with a combination of two-story

1 and single-story construction. A lot of the deliberation
2 and the expert testimony and some of the documents that
3 we've got, I think we're probably okay with a two-story
4 subterranean parking structure as long as there's
5 appropriate measuring and mitigation for the property
6 owners.

7 So let's allow that there may be a two-story
8 parking garage below in order to reduce the footprint...not
9 reduce the footprint, perhaps increase the footprint up top
10 but reduce the height. So, for instance, if the builder
11 goes back to the original proposal, there was a two-story
12 building that came closer to Alberto Way and a two-story
13 building that was a little bit smaller back roughly where
14 the second half of the current proposal is. If you increase
15 the size of the left-hand portion of the building out to
16 the original story pole lines, and went up so you've got a
17 big building there, and it's not particularly attractive.
18 The entire architecture right now is not particularly
19 attractive, however, the views that the neighbors are
20 asking to be preserved are generally the views that are
21 along the Highway 17 side of the property, so if you allow
22 for a larger two-story building on the Highway 9 side and
23 one-story construction, it would be a nice, tall 15'
24
25

1 interior construction. It could be tall, but it would still
2 give you the views that the neighbors are requesting.

3 Moreover, if the developer was willing to
4 consider that, you could put some of the amenities toward
5 the front of that new two-story building, and some of the
6 amenities that would include a drycleaner, a café, or some
7 other amenities that help the tenants of the building, but
8 could also be available for residents, so the development
9 isn't a complete loss to the neighbors.

10 So my recommendation would be to consider
11 increasing the surface... And the reason I asked about the
12 10% reduction is if you pull the building out further to
13 the original story pole lines you're going to lose about
14 ten parking spaces. So you could say we'll reduce the
15 requirement for so many parking spaces by ten in order for
16 this to happen. You'd still have some surface parking,
17 you'd still have two-story parking, but down below.

18 My point in all of this is that there's a way to
19 create the square footage that the developer is asking for
20 and allow for views that the residents are asking for, and
21 within the approximate 60,000 to 70,000 square feet that
22 seems to be on the table.
23
24
25

1 CHAIR O'DONNELL: Let me see if I understand.
2 They were good questions. I want to make sure I understand
3 what you're saying.

4 You're saying you're not necessarily against
5 74,000 square feet, the range you've talked about now is
6 60,000 to 74,000, I think, or 72,000, but you want to get a
7 single-story building in part of the property so the
8 neighbor's view would be protected, which would mean then
9 that what I'll call the second building would be larger
10 than it presently is; it would be the same height, but it
11 would be wider. Now, I don't know, and I don't know if
12 anybody knows, whether that could be done in such a fashion
13 that the total square footage asked for by the Applicant
14 would be the same, but it would be rearranged, but your
15 suggestion is there is that possibility, is that correct?

17 COMMISSIONER JANOFF: That's correct, and I'm not
18 suggesting that the rearrangement of two-story/one-story
19 would achieve 74,000 square feet, but the original Planning
20 Commission request was to bring it down to 63,000, and the
21 neighbors have pretty much said that the 62,000, 60,000,
22 would be acceptable, but they also want views. So how do
23 you make that happen? In deference to the developer, who
24 may want that added square footage and in deference to the
25 neighbors who would like to have views, I think we can

1 accomplish both by approving a combination of single-story
2 and two-story structures.

3 CHAIR O'DONNELL: Okay, we've got two hands up,
4 and I think Vice Chair Kane had the first.

5 VICE CHAIR KANE: For the Town Attorney. We've
6 had involvement from Town Council, and sometimes we talk
7 about this going back to Town Council. I wanted your
8 assistance in making this perfectly clear that we in fact
9 are the deciding body right now, and it only goes to Town
10 Council if it gets appealed, and if we are in fact the
11 deciding body, then we have alternatives to an up or down
12 motion. We can continue the matter to a date certain with
13 specific direction, which means we can adopt, for example,
14 a lot of what Commissioner Janoff just said, or some of the
15 things I said, radical, we can approve the application and
16 put on additional modified conditions, or we can deny it.

17
18 So I'm saying that we do have constructive input
19 at this point. This is a regular de novo case before us,
20 like every other one we've got, and we can say I want the
21 roof lower, I want the shingles blue, I want this, and
22 we'll talk further about it in July. So we have the option
23 as the deciding body to make revisions, suggest revisions,
24 and continue this to a date certain, is that correct?
25

ROBERT SCHULTZ: That is correct.

1 VICE CHAIR KANE: So I'd like to support a lot of
2 what I just heard, Mr. Chair.

3 CHAIR O'DONNELL: Commissioner Hudes.

4 COMMISSIONER HUDES: I appreciate looking for
5 creative solutions, but I did want to go back to a couple
6 of sort of factual things.

7 The square footage that was considered by the
8 Council, what was that square footage that they were asking
9 for a further... Some of them were asking for 4,000, some of
10 them were asking for 74,000. What was that about?

11 JENNIFER ARMER: The plans that were reviewed by
12 Town Council were the 83,000.

13 COMMISSIONER HUDES: So there's been an
14 approximately 9,000 square foot reduction from that,
15 correct?

16 JENNIFER ARMER: Correct.

17 COMMISSIONER HUDES: Okay. The other thing with
18 regard to Commissioner Janoff and the discussion about
19 63,000 that was, she said, the request of the Planning
20 Commission. That's not actually correct. I was on the
21 Planning Commission at that time. One Commissioner stated
22 that figure. The Commission voted not to determine a
23 63,000, that was not part of the record, so I am a little
24 concerned about introducing a design or a figure that has
25

1 never been considered or analyzed that I have heard was the
2 Council discussing an application that was 83,000,
3 requesting a reduction, and us getting a revised
4 application for 74,000, so I just wanted to establish that
5 those are some of the facts that we're dealing with.

6 CHAIR O'DONNELL: If I understand Commissioner
7 Janoff, and this is a question to her, really, you weren't
8 precluding 74,000, but you were saying there might be a
9 range, and I don't disagree at all with what Commissioner
10 Hudes said, but I don't know where we're quite going at the
11 moment, but were we to say this is what we think would be
12 satisfactory, you have not precluded 74,000 in your
13 suggestion?
14

15 COMMISSIONER JANOFF: That's correct.

16 CHAIR O'DONNELL: Okay. Commissioner Hanssen.

17 COMMISSIONER HANSSEN: I appreciate the thoughts.
18 I guess I was kind of more of the mind that my feeling
19 after watching the Council hearing is that they pretty much
20 had it narrowed down to just a few things and that they
21 were pretty happy with a relatively modest size reduction,
22 although they didn't specifically say that in their motion,
23 that was in their discussion. And so I was more of the mind
24 that we needed to look at this on the merits of what we got
25 from the Applicant versus trying to change that materially.

1 So what I did for myself is I wrote down what are
2 the reasons to approve this thing, and there actually are
3 some compelling reasons. The need for the Class A office
4 space, being LEED Gold certified. I mean we have a
5 Sustainability Plan in Los Gatos and we don't have a lot of
6 buildings that are LEED Gold, and so this is a great thing
7 for our Sustainability Plan. It's zoned for commercial. It
8 meets all the objective standards. No exceptions requested.
9 It's just steps away from Highway 17. The Applicant has
10 cooperated and reduced the size. There are no significant
11 impacts in the EIR, and they've gone over and above in
12 terms of the required mitigation, and they've offered
13 additional concessions like the shuttle, which although
14 isn't a land use issue it might maybe help a little bit
15 with traffic.

17 So then I wondered about what we could do to make
18 the project better without materially changing it. I was
19 looking more at stuff like could the building be made
20 coming a little closer to the street and maybe have the
21 setback on the north side be a little bit more, because I
22 went down there today and took some pictures and there
23 actually is a very nice view of the hills in that area
24 between the north side boundary line and the nearest
25 building, with the exception of a big tree that's kind of

1 blocking part of the view. I was looking at things like
2 that, and the public access easements for the surface
3 parking and open space, and I wondered about some other
4 things.

5 I worry about what has been brought up in
6 hearings about the trend in the Silicon Valley to reduce
7 the number of square footage per employee, so in order to
8 make sure that the traffic numbers in the Traffic Impact
9 Analysis hold up I wondered about maybe limiting the number
10 of total employees that could be in the building by a
11 tenant.
12

13 And these are relatively less minor things. Is
14 there a way to remove that large pine tree in the northwest
15 part of the property? I also wrote down a written agreement
16 to maintain the shuttle for three to five years. But those
17 are the kind of things I had in mind that would make the
18 project better without materially changing it, and so that
19 was where I came up. I wasn't thinking as much dramatic
20 change and another redesign.

21 CHAIR O'DONNELL: Can I also say this, just
22 listening to everybody? At the moment I think I've divided
23 the comments sort of into two. A significant revisiting
24 would require a continuance and some instructions to the
25 Applicant as to what we wanted, otherwise it wouldn't make

1 any sense at all. The other one is not to continue the
2 matter but to make a decision and now, and if you wish to,
3 I guess, impose some additional conditions, although the
4 conditions I've heard now would have to be studied, I
5 think, and that would mean that you couldn't very well do
6 it tonight. I'm not singling out yours, but any changes of
7 a substantial nature may have to at least go back to the
8 drawing board or have an opportunity to respond to us and
9 say is this a good thing or a bad thing, because we don't
10 know. We're not supposed to design from up here, and we're
11 not trying to do that.

12
13 The fundamental question I guess I have is
14 Commissioner Janoff has, I think, a good suggestion, but
15 that would require a revisiting, a redrawing. Now, the
16 Applicant could say not going to do this, it doesn't make
17 any sense to us, and then they could appeal.

18 I, personally, would like to do something tonight
19 that would be acceptable in the broadest sense for both the
20 Applicant and the neighbors. The neighbors have a very,
21 very serious problem; it is not going to go away whether
22 you put in a 60,000 square foot building there or a 74,000
23 square foot building; it just isn't. So I guess that being
24 the case the only thing I would like is some direction from
25 the Planning Commission on is it something you want to

1 decide tonight, or is it something you want to send back,
2 in other words, continue the matter?

3 I, personally, if at all possible, would like to
4 decide the matter tonight. I don't think Commissioner
5 Janoff's suggestion fits that bill, although I like her
6 suggestion, but I think if we implement your suggestion we
7 could not make that decision, is that your understanding?

8 COMMISSIONER JANOFF: Yes.

9
10 CHAIR O'DONNELL: Okay, so that having been said,
11 I'll throw it back to all of you to hear what do you want
12 to do with this tonight? Commissioner Janoff.

13 COMMISSIONER JANOFF: Since I'm causing issues.
14 The residents are seriously unhappy right now, and the
15 developers are essentially following the guidance that was
16 provided by the Town Council. I think it's incumbent upon
17 us to try to get it as right as we can, and if that takes a
18 little bit more time in what has been a relatively time
19 consuming process, I think we owe it to the Town to do
20 that.

21 I don't know how much additional work is required
22 on the part of the developer to show even conceptually what
23 a single-story/two-story combination might look like, but I
24 do think it's a good step in the direction of helping to
25

1 come to a reasonable compromise, so I would be willing to
2 take one more meeting to do that.

3 CHAIR O'DONNELL: Can I hear some of the other
4 Commissioners on I think we have two choices in a broad
5 sense. Commissioner Hudes.

6 COMMISSIONER HUDES: I think Commissioner
7 Janoff's suggestions make sense in this situation. I'm very
8 troubled about the concerns that the neighbors have with
9 this project, and I'm concerned that we did not get
10 extremely specific direction from the Council. So given
11 that, I think it would be good to do another round and take
12 a look at the suggestions that have been made, including
13 those suggestions by Commissioner Hanssen that I think are
14 maybe less drastic than complete building redesign. I heard
15 something about exploring building location, which is
16 probably the most significant one that was suggested. I
17 heard understanding whether total employees could be
18 limited, removing a pine tree, codifying the shuttle.

19
20 And by the way, I think the step to put the
21 shuttle in is very positive. I think it's something that
22 not only helps with traffic, and we were all concerned
23 about the numbers in the traffic impact report, I think it
24 also provides community benefit and is something I wish
25 other developers would consider as well, so I think that if

1 we need to go another round on looking on how that gets
2 codified, I think it's worth it.

3 Those are all things that make sense. I did read
4 the information on what it would take to go to a single-
5 level parking, and although I'm the one that raised that in
6 terms of wanting more information, and certainly the
7 community raised that as an idea, I'm not convinced that
8 it's possible to do that on this site for a variety of
9 reasons that were stated, so I am not reopening that
10 particular item, but the other items make sense to me.

11 And again, along the lines of what Council Member
12 Jensen's original motion was, and that is to explore these
13 items and to analyze them and come back having explored
14 them, for the Applicant to explore them with Staff, and to
15 present some information back to us.

16 CHAIR O'DONNELL: Let me ask a question of Staff.
17 One thing you said that we might be able to get an answer.
18 I have personally not heard of an employee limitation as
19 opposed to a square footage limitation, so I would just
20 direct the question to the three of you: Does anybody have
21 an opinion on given whatever the square footage is, could
22 you say you may not have more than X employees? I see a
23 head shaking violently no here, but you(inaudible).
24
25

1 JOEL PAULSON: I'll add to the head shaking.
2 Building occupancy is set by the Building Code, so we
3 wouldn't be regulating the number of employees. It's
4 occupants, and so that's not something that we would do.
5 Depending on how it's laid out, then they have to calculate
6 the occupancy for the building. It has to meet Building
7 Code and Fire code.

8 CHAIR O'DONNELL: Part of the reason I asked the
9 question is, I, personally, don't want to send it back with
10 a bunch of somewhat ephemeral questions. I haven't made my
11 own decision yet, but if we were to send it back with
12 Commissioner Janoff's suggestions, which I think are
13 concrete, I could understand them. I don't know what the
14 answer is, because the Applicant would have to look at it
15 and say this is doable, it isn't doable, and we can't tell
16 them what's doable and what's not, but at least you can
17 understand what Commissioner Janoff is saying.

18 As to the other things like trees and stuff like
19 that, I think we could condition an approval on some
20 reasonable things like that, so I'm not against them, but I
21 just wouldn't want to send it back with too many issues. I
22 would like to be very clear if we were to send it back, so
23 that the Applicant would have an incentive to do it. Now,
24 my understanding from the people who live in the
25

1 neighborhood, they're not just concerned with the view,
2 they're concerned with traffic, they're concerned with all
3 kinds of things. The proposal of Commissioner Janoff, while
4 a good one, will only address, I think, the view, and it's
5 not clear to me at all that that would satisfy the majority
6 of the neighbors. If that's the case, it's almost like if
7 you could address satisfactorily most of the concerns of
8 the neighbors, I'm all in favor of it, but this particular
9 suggestion would only address the view, and my perception
10 of what everybody out here has said, that wouldn't be
11 enough. If that's the case, then I don't know why we would
12 send it back to redraw the thing, because at the end of the
13 day you've got 74,000 square feet and people are going to
14 come up and say too much traffic, I can't get an ambulance
15 in here, whatever, whatever, and we're not going to have
16 advanced the ball down the field. Commissioner Janoff.

18 COMMISSIONER JANOFF: In my opinion, the proposal
19 on the table is not acceptable, so the question is what
20 portions of that does the Planning Commission reasonably
21 have an opportunity to affect? I believe watching the
22 deliberations of the Town Council, I think they make it
23 relatively clear they were comfortable with the traffic
24 report, comfortable with the EIR, comfortable with the
25 other concerns that you raised, which the neighbors are not

1 comfortable with, but for us to send it back with a denial
2 right back... And many of the modifications that are included
3 in this proposal do reflect the suggestions that the Town
4 Council made, the window glazing and so forth, so if we
5 deny it based on what we have at present, I'm guessing it
6 will be appealed and the neighbors will have what we have
7 on the table.

8
9 My view is we can improve what we have on the
10 table so that there's at least some benefit for the
11 neighbors. I'm willing to forgo the arguments, and with all
12 respect to the neighbors and your concerns, I appreciate
13 them, I understand them, I think there is some room that
14 I'd like to discuss later if we get to a point where we
15 want to approve something I think we can tighten up some of
16 the CUP requirements, but the things I'm afraid of is that
17 if we deny it, it will go back to the Council and it will
18 be stamped, because the developer has accommodated many of
19 the requirements that some of the Town Council members had
20 been looking for, so realistically I think we have very
21 little room here to make some changes, so that's my
22 motivation.

23
24 CHAIR O'DONNELL: Let me make a suggestion. You
25 make a motion, let's see if we get a second, and then we
can vote on it. If people feel that's premature, I'll be

1 guided by that, too, but unless I hear that you think it's
2 premature I would invite a motion from Commissioner Janoff
3 and see if we can get a second.

4 COMMISSIONER JANOFF: I would move to continue
5 the request for the Architecture and Site Application with
6 guidance to the developer to redevelop or redesign the
7 elevations of the building so that it accommodated both
8 single-story and one-story in order to maximize the views
9 of the neighborhood, particularly the views that would be
10 visible along the Highway 17, not the Highway 9..

11 CHAIR O'DONNELL: The north end of the property.

12 COMMISSIONER JANOFF: I think it's the western
13 side of the property. And by doing that, if you're inclined
14 to stick to the 74,000 square feet you've proposed, that's
15 fine, but make sure that you're doing it in such a fashion
16 that it either increases the two-story in one direction and
17 allows for a single-story in another to give the residents
18 more views.

19 CHAIR O'DONNELL: Is there a second? There is a
20 second, Commissioner Burch.

21 Let me ask Staff, you've heard the motion. Before
22 we discuss it further and vote on it, is there anything in
23 the motion that the Staff would find not clear enough for
24 the Staff to have subsequent input on?
25

1 JOEL PAULSON: I think the discussion this
2 evening is clear, and then it would depend on what, if
3 anything, the Applicant was willing to do in terms of a
4 redesign.

5 CHAIR O'DONNELL: All right, Commissioner Hudes.

6 COMMISSIONER HUDES: I just wanted to come back
7 to some of Commissioner Hanssen's suggestions, and rather
8 than try to get them third-hand, I would invite
9 Commissioner Hanssen to weigh in on whether those should
10 also be things considered in a continuance?
11

12 COMMISSIONER HANSEN: The thing that's troubling
13 me is I too am very concerned that some of the other
14 residents are really worried about what's happening with
15 this development and the impacts it will have, and so I did
16 a lot of math over the last few days, and not to make light
17 of the 60,000 number, but we have to come up with some
18 objective sort of standard, and I looked at it in terms of
19 traffic and I'm like well it's pretty much a corresponding
20 percentage difference, so if you take the thing down 20%
21 it's going to go down to like 416 instead of 489 daily
22 trips, and the peak AM trips is going to go down to 80
23 instead of 104. It's still a lot more than they have now,
24 and so I'm just not sure that just fixing the view is going
25

1 to really help, and then to put the Applicant through a
2 required redesign.

3 I mean maybe it ought to be more non-specific
4 about what to do, but I don't know that we can be that non-
5 specific.

6 CHAIR O'DONNELL: If I understood Commissioner
7 Hudes correctly, you, independent of this, had some of your
8 own concerns, and I think we were just trying to explore
9 that.
10

11 COMMISSIONER HANSSEN: I wanted to make that
12 comment as a predecessor to say that I don't know if it
13 makes sense for them to say move the north setback over if
14 they're going to be required to do a redesign to bring the
15 thing down, but if it's open about how they get the view
16 better, then my suggestion would make sense.

17 CHAIR O'DONNELL: What was your suggestion? I
18 missed it.

19 COMMISSIONER HANSSEN: I basically said right now
20 the Applicant had added another 30' to the north setback,
21 so now it's 56', and I thought that the residents had
22 talked about it being 80', so I thought if it was 80', that
23 would take it a little bit beyond where the farthest most
24 north building is right now, and right now the view is
25 actually pretty good, with the exception of that big pine

1 tree I was talking about when you look at that. All I'm
2 saying is if it has to be redesigned, or is there another
3 way that they can improve the view? I'm not trying to leave
4 it vague, but my suggestion to change the north setback
5 might be part of the proposal, but if they put it back into
6 two buildings it's probably not realistic to do that.
7 They're probably going to end up moving more over closer to
8 the property line would be my guess.

9
10 CHAIR O'DONNELL: What would you like to add to
11 the motion?

12 COMMISSIONER HANSEN: I could add the other
13 things. We got feedback that we can't limit the number of
14 employees, but we could limit the number of occupants, but
15 it's based on the Fire Code anyway, so there's no need to
16 put a condition in. They were talking about as low as 75
17 square feet per employee, which would 800-900 employees. Is
18 there any chance that the Fire Code would allow that many
19 employees in a building?

20 JOEL PAULSON: That's possible, it just depends
21 on the layout for the specific tenant, so that's handled
22 when the tenant improvements for a specific tenant come
23 through the building plan check process, and then the
24 occupant load has to be provided by the Applicant and then
25

1 is checked by Staff to make sure it complies with the
2 Building Code and Fire Code.

3 COMMISSIONER HANSSEN: So I don't think it would
4 make sense to add that. I did mention the written agreement
5 to maintain the shuttle for three to five years. I think
6 that is an outstanding thing that the developer had done. I
7 know they agreed to it in the terms and conditions, but...
8 Yes?

9
10 JENNIFER ARMER: I just wanted to call your
11 attention to the new condition of approval that Staff did
12 add to the draft conditions for your consideration, which
13 actually does include it in the Conditional Use Permit, so
14 that would continue. If they wanted to stop the shuttle,
15 they would be required to come back to this body to request
16 a modification to their Conditional Use Permit.

17 COMMISSIONER HANSSEN: Oh, good, so that's
18 covered. Well, I saw it in the terms and conditions, but I
19 wasn't sure if it would actually be in the Conditional Use
20 Permit or not. Okay, great, so that answers that.

21 Then the other thing I had was it's really
22 outstanding that the Applicant had offered to make the
23 surface parking available to the residents, and also the
24 open space on the north end, assuming that that continues,
25 and I hope that it would be not just a terms and conditions

1 thing, but there would be some kind of easement that it
2 would be there as different tenants came through and that
3 sort of thing.

4 JENNIFER ARMER: Again, it wasn't specifically a
5 recorded easement, but it is one of the conditions that is
6 part of the Conditional Use Permit, and the Conditional Use
7 Permit runs with the land, so it doesn't matter which
8 tenant is in there, but that would be one of the conditions
9 that they would have to meet to continue an office use in
10 this location, and any modification to that would require a
11 modification to the Conditional Use Permit.
12

13 COMMISSIONER HANSSEN: Okay, so that's covered,
14 because it's in the CUP as well. So I think that was pretty
15 much the major items that I had.

16 CHAIR O'DONNELL: Commissioner Hudes.

17 COMMISSIONER HUDES: I wanted to come back to the
18 motion. My understanding is that we're not redesigning the
19 building to be one-story/two-story, but we are giving
20 direction—tell me if I got this right—for the Applicant to
21 evaluate or explore the possibility of improving the views
22 by going to a one-story/two-story solution.

23 CHAIR O'DONNELL: That's not my understanding. We
24 can go to the maker. My understanding was—we'll have two
25 understandings here if you tell us—I understood you to say

1 you wanted a project having a one-story element to it, and
2 I guess a two-story element to it. Perhaps I misunderstood
3 what you wanted, and if you could explain it to us.

4 COMMISSIONER JANOFF: No, that's correct. My
5 feeling is I'm not proposing that we dictate the size of
6 the one-story or two-story, but I am concerned that if we
7 only suggest that there might be a one-story/two-story
8 we'll get back the same kind of blocky structure maybe
9 shifted on the property a little bit, but it doesn't do
10 much in general.

11
12 CHAIR O'DONNELL: You did say the one-story would
13 be so arranged as to improve the view, that is to say, I
14 keep throwing out north, but I think it's the north side of
15 the property, which would open up the west side. Yes, that.
16 So in other words, if they came with a one-story on the
17 other side of the property, that's not what you're asking
18 for.

19 COMMISSIONER JANOFF: That's correct.

20 CHAIR O'DONNELL: Okay. Commissioner Hudes.

21 COMMISSIONER HUDES: Questions for Commissioner
22 Janoff. Do we have any evidence that's been presented to us
23 that suggests that they can accomplish a one-story/two-
24 story solution in the range of square footage that we're
25 talking about, roughly 74,000?

1 COMMISSIONER JANOFF: I don't have my ruler out,
2 but looking at Drawing A-1.00, I'm looking at the footprint
3 from the originally proposed 91,000 or 93,000 square foot
4 project, and that building was, I don't know whether that's
5 the 44,000 or the 47,000 square foot project, but that's
6 the substantial area where I believe a two-story building
7 could be constructed, and it does what Commissioner Hanssen
8 suggests, and that's pulling the building out closer to
9 Alberto Way. However much or little of what would now be
10 the top part of the L becomes one-story or remains two-
11 story would be a question for the developer, but the point
12 is that any modification to, as Commissioner O'Donnell
13 refers to it, the north end of the proposed building, any
14 modification of that that brings any portion of that to a
15 single story would help preserve the view, so my
16 recommendation is for them to consider how they can achieve
17 the square footage, not necessarily proportioned two-
18 story/one-story.

20 COMMISSIONER HUDES: I mean I'm okay with
21 recommendation to consider, but I'm concerned about a
22 mandate to do this, because I don't think there's actually
23 evidence that it could be accomplished, and I actually
24 believe we had testimony earlier that said that any time
25 you move the building closer to Alberto Way, you decrease

1 the views, you obstruct the views of those hillsides. I'm
2 okay with consider and explore. I don't think we have
3 evidence that would allow me to support a motion that says
4 that's a mandate to do a one-story/two-story.

5 CHAIR O'DONNELL: Well, these in a sense are
6 never mandates when you send it back and say I'd like you
7 to try to do this. That's really all you're saying: I'd
8 like you to try to do this. Now, they can come back and say
9 we've done six drawings and you can't do it, because here,
10 let me show you, and if they do that, then they could
11 convince us that it doesn't work.

12 COMMISSIONER HUDES: If that's the motion, then
13 I'm okay.

14 CHAIR O'DONNELL: That's my understanding. Is
15 that correct, Commissioner Janoff?

16 COMMISSIONER JANOFF: Yes.

17 CHAIR O'DONNELL: So if it wasn't worded
18 correctly, we should make sure that it is worded as
19 Commissioner Hudes wishes and as I think I've just said.

20 COMMISSIONER HUDES: I would propose a couple
21 other things to consider in that vein. One is whether
22 Commissioner Hanssen's suggestion to move the north setback
23 would improve views as well. We said that that might be an
24 "or," or another option to improve views.
25

1 And the other item is actually coming back to
2 something that's an old idea that came up. There was
3 actually quite a bit of testimony from residents that a dog
4 park wasn't necessarily the best use, and so I was again
5 suggesting that while it be publicly accessible open space,
6 that the Applicant explore potentially other uses for that
7 space that might be more attractive to the neighbors.

8 CHAIR O'DONNELL: Let me again say something,
9 because I'm trying to understand this as we're going along,
10 too. I understand Commissioner Janoff wanting the view, but
11 I also understand her to say the architectural look would
12 be improved by the single-story and the two-story as
13 opposed to the whole thing being two stories, so we're
14 really dealing with two things.

15 One would be we really want to improve the view
16 there, and that could either be done by what you're
17 suggesting now, or it could be done by this one story.
18 Maybe the one-story will not improve the view enough, but
19 the suggestion you're making may. Or not if it's going to
20 improve it enough, but improve it greatly, so you could put
21 both things. In other words, I understand the motion simply
22 to be let's see what we can do with a one-story/two-story,
23 making the two-story bigger than it presently is to try to
24 get to the square footage the Applicant wants.
25

1 But also what we've heard is if we could expand
2 the open space, that would be a big help too, and they
3 should look at that.

4 COMMISSIONER HUDES: I was referring to the use..

5 CHAIR O'DONNELL: The dog park.

6 COMMISSIONER HUDES: Right, and not to expand it,
7 but to allocate potentially a different use that the
8 residents would prefer.

9 CHAIR O'DONNELL: Yes, all right. So will the
10 maker of the motion incorporate those two suggestions?

11 COMMISSIONER JANOFF: Yes.

12 CHAIR O'DONNELL: And will the seconder?

13 COMMISSIONER BURCH: Yes.

14 CHAIR O'DONNELL: All right, I'm going to call,
15 unless there's further.

16 VICE CHAIR KANE: There is.

17 CHAIR O'DONNELL: Okay, go right ahead.

18 VICE CHAIR KANE: I feel like we're going down a
19 very dangerous path. I'm very concerned about the precedent
20 of ignoring so much passion in the Town Code, in the
21 General Plan, Commercial Design Guidelines, only to hit a
22 consistency to what? I don't even know what, but there's so
23 much language in here, and there's so much passion in our
24 letters, and we're supposed to be, "Input from surrounding
25

1 residents is a major consideration during any development,"
2 and we're playing numbers games, and we've been playing
3 numbers from 96,000 to 84,000 to 72,000. I'm really
4 distressed, and I'm sure that's not clear, but I'd like to
5 make it clear that we are ignoring provisions we have to
6 protect and preserve the Town, which we are in danger of
7 giving away, and I'm not going to support the motion unless
8 we give guidance to further reduce the project and make it
9 consistent with the guidelines we have, and especially
10 listening to the neighbors.
11

12 Everything we have is similar to what was there.
13 Preserve and protect. We have 31,000 square feet there. The
14 initial design was 94,000. I don't think they read a word.
15 Then we got it down to 74,000, and we got it down further,
16 and Council suggested there might be another level. We're
17 giving that away, and we're giving this language away,
18 which we are going to need again in the future, so that's
19 my two cents.

20 CHAIR O'DONNELL: All right, all those in favor
21 of the motion, say aye. Commissioner Hanssen, you're not
22 voting on it?

23 COMMISSIONER HANSSSEN: I'm voting against.
24
25

1 CHAIR O'DONNELL: Okay. So those opposed? So we
2 have four for, and two opposed. It will be continued to a
3 date certain. The date is?

4 JOEL PAULSON: We'd like to add to the motion, if
5 it's okay with the maker of the motion and the seconder, to
6 a date certain of February 28th, if I can read that far.
7 February 28th, so approximately six weeks. Should the
8 Applicant choose to not make any changes, that will come
9 back then. The only other option they would have would be
10 to pay for additional noticing for a new public hearing,
11 and so we will make sure they understand those options. But
12 if it's okay with the maker and the seconder, to February
13 28th, and then we would need consensus from the Commission.
14

15 CHAIR O'DONNELL: Yes.

16 JOEL PAULSON: So it's continued to February 28th.
17 Thank you.

18 CHAIR O'DONNELL: Thank you.
19
20
21
22
23
24
25