



Planning & Transportation Commission Draft Excerpt Minutes: September 9, 2020

Teleconference
6:00 PM

Call to Order / Roll Call

Present: Templeton, Alcheck, Hechtman, Lauing, Summa

3. PUBLIC HEARING/QUASI-JUDICIAL: Castilleja School Project, 1310 Bryant Street, 1235 and 1263 Emerson Street [16PLN00238]: Request by Castilleja School Foundation for Planning and Transportation Commission Recommendation to City Council on Applications for a Conditional Use Permit (CUP) Amendment to Increase the Student Enrollment Cap to 540 Students with Phased Enrollment and Campus Redevelopment, and a Variance to Replace Campus Gross Floor Area. The Project (but not the Project Alternative) Requires Recommendation on a Variance for Subterranean Encroachment Into the Embarcadero Road Special Setback and a Tentative Map with Exception to Merge Three Parcels Where the Resulting Parcel Would Further Exceed the Maximum Lot Size in the R-1(10,000) Zone District. Zone District: R-1(10,000). Environmental Review: Final Environmental Impact Report (EIR) Published July 29, 2020; Draft EIR Published July 15, 2019. For More Information Contact Amy French, Chief Planning Official, at amy.french@cityofpaloalto.org

Chair Templeton: I think we should start with counsel telling us... reminding us about the public comment rules. Especially, given the concern about the new information from Staff that just came out. Are you able to comment on that Mr. Yang?

Mr. Yang: So, this is a continued public hearing from the previous PTC meeting and as a result there's... it's not necessary to have another public comment period because there... in our view, there's not been a significant change in the project or the item that's before you.

Yes, Staff has issued a Staff Report responding to the Commission's questions said at its last meeting, but these are largely clarification items. It's akin to or responding to Commissioner questions if we had just continued on into the wee hours of the morning that last time.

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1 Chair Templeton: Thank you for clarifying. Ok, so we have a possible presentation from Ms.
2 French to address the items that were put in the At Place Packet. Is that something you'd like to
3 share with us now?
4

5 Ms. Amy French, Chief Planning Official: Yes, I'll try to share my screen.
6

7 Chair Templeton: Thank you.
8

9 Ms. Rachael Tanner, Assistant Director: And just as she prepares for that, our intention was not
10 to respond to each question. Ms. French will provide kind of an overview of where we left off
11 and where we are, but we are available at the pleasure of the Chair and of the Commissioners
12 to go into more detail as discussion items are brought forward or questions that you'd like to
13 have oral conversation about.
14

15 Ms. French: Ok, can everyone see my screen?
16

17 Ms. Tanner: We can Amy. If you can go to display settings at the top of your screen and switch
18 your display. That may improve (interrupted)
19

20 Commissioner Alcheck: I just had... can I jump in real quick? I want to update the disclosure for
21 the... this quasi-judicial item. I did reach out to Castilleja among a number of other schools but
22 because they're the applicant I just wanted to disclose that I reached out to their
23 representatives to inquire about the conditions that are applicable. And they pointed me to the
24 letter that they prepared... that their attorney-prepared and its footnotes on Page 6 which is
25 public information now. So, but I did want to disclose that I did reach out to them for the
26 purposes of better understanding the specifics of the conditions that they are already operating
27 under or preserve to be interested in operating under this application. I also reached out to
28 some other schools too, but they're not (interrupted)
29

30 Chair Templeton: Thank you for sharing that Commissioner Alcheck. Any other changes to
31 disclosures? Commissioner Summa.
32

33 Commissioner Summa: Yes, I have a disclosure, but I also have some questions about the
34 process about the timing of submissions and also oral speakers to this item. Should those be
35 addressed now or after Staff's (interrupted)

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Chair Templeton: If we could give Staff the chance to orient us to what process they have in mind for sharing... they have a couple of context items to share. Then we'll go to you first to address your questions about the process for our discussion. Would that be ok?

Commissioner Summa: Ok, yeah, I don't need to be first. I just wanted to know what time but I do have a disclosure and that's what... that I was at a regular neighborhood association meeting to update people about the NVCAP process as I had asked to do. And they actually had... they were going to discuss the Castilleja process. So, I'd left the meeting so there wouldn't be an appearance; but I just want to be super careful in case somebody knew I was at that meeting that I did excuse myself because I didn't feel it was right to stay.

Chair Templeton: Alright, thank you. Any other changes to disclosures since our last meeting? Alright, over to you Ms. French.

Ms. French: Ok, thank you. Let me try that again. Is everyone seeing the presentation? It's a short one I promise.

Ms. Tanner: We can see it, Amy. Thank you.

Ms. French: Thank you. We are back. Last we met was August 26th where we had a Staff presentation, applicant presentation, a presentation on the EIR Environmental Impact Report, and public comment; extensive public comments. The topic was focused on Alternative Number Four which is the Disbursed Circulation and Reduced Garage Alternative. There was not enough time for the Planning and Transportation Commissioners to take up discussion, in-depth discussion on this project.

So, there was a round of questions that the Planning and Transportation Commission was able to ask of Staff to return with answers, which we have done in the At Place Memo. It is a long memo, there were a lot of questions. There were some correspondence and other comments in response to the Planning and Transportation Commission's questions. PNQL, the neighborhood group, was one of those (a group that provided comments) and those were transmitted to the Planning and Transportation Commission last week. The applicant provided clarification letters and those were received in the last two days, yesterday and today. The applicant had noted during the Planning and Transportation Commission that there was going to be a letter

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1 forthcoming and it did come to Staff yesterday and was turned around to send to the Planning
2 and Transportation Commission and post on the web page. We have a very transparent web
3 page. We post many items on those pages for the project. The applicant's temporary campus
4 layout was also received. We have previously received the Original Project temporary campus
5 layout and more recently we've received this modified drawing showing how that temporary
6 campus would lay out with the Emerson homes in place and those trees. And then of course we
7 were able to create excerpt minutes from the Planning and Transportation Commission
8 minutes. They're in a draft state. Those are also on the project webpage.

9
10 So tonight, this is the purpose. This is a continued hearing. The Planning and Transportation
11 Commission had closed the public testimony to enable the Planning and Transportation
12 Commission to begin its discussion on the project. On areas related to the Environmental
13 Impact Report and the Discretionary Applications that are on file for the Conditional Use Permit
14 and the Variance for replacement of Gross Floor Area. The Planning and Transportation
15 Commission is welcome to provide direction at the conclusion of its discussion based on the
16 information that has been provided. The direction would include continuing the hearing either
17 for further deliberation or to provide initial guidance to Staff to prepare draft Findings and
18 conditions that would be forwarded to the Planning and Transportation Commission.

19
20 I said it would be short. These are the next hearing dates. The Historic Resources Board hearing
21 has been advertised. It is set for this September 24th and then on October 1st is a tentative date
22 for Architectural Review Board discussion of revised approaches that we are receiving now
23 from the applicant in response to ARB comments back on August 20th. And you have here
24 potential dates for continued Planning and Transportation Commission hearings. That
25 concludes the brief portion of my presentation. I'm going to switch off and send it back to the
26 Planning and Transportation Commission. Let me see if I (interrupted)

27
28 Chair Templeton: Thank you, Ms. French. Just to clarify if people want... if the public would like
29 to give comments on this project, even though the public comment period of this item is
30 closed. They can email into us and they can also come to those other two Commissions that you
31 mentioned, the ARB and the HRB. When would be the next time that they would be able to give
32 verbal comments in front of this body? Is that if it's re-agendize or how does that work?

33
34 Ms. French: At the pleasure of the Chair and Commission, this is in your court to continue to a
35 date that you choose for further discussion or deliberation.

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Chair Templeton: Alright, thank you for clarifying that. Commissioner Summa.

Commissioner Summa: Thank you so much. So, I have two areas of discomfort with this evening. We had a lot of... a very lengthy discussion at our last meeting about whether we should even have... that we could... should... that it was desirable to meet on this date since we knew that we had one... Vice Chair Roohparvar had a planned absence and there was some discussion about whether Commissioner Riggs would be here. And I had thought he would and now he's not here, so we now have two people absent on a very important issue. And I believe Vice Chair Roohparvar also said that she would send in her written comments for the benefit of her colleagues which I didn't see anywhere. I hope I didn't miss them. So, I'm feeling a loss of two of my colleagues for this very important discussion.

And then my second area of discomfort is with the two... well, I guess there's really three. The other is we could take more public comment tonight. We have a lot of new information that came in very, very late and that is at the... as Ms. French said that's at the... our discretion. And as Mr. Yang said it's not necessary to have it tonight, but I would think it would be appropriate.

I would also be more than happy to just continue the meeting tonight. I don't know how many people had time to look at the two late submissions. One from the applicant team which was only emailed to us at 8 o'clock last night and I have to admit I saw it at 6:30 this morning as I was reading my emails and doing crossword puzzles on my phone. So, I certainly did not have enough time to absorb that and the 30 Page memo from Staff before this meeting. So, I would be... and of course, the public has not had a chance. I don't think even Staff has had a chance to look at the applicant's additional submission that came in last night. So, I feel we're kind of working in the dark here and there's a lot of benefit to me for everyone involved to delaying the meeting a little bit; which we were maybe not even going to be able to meet tonight anyway. There's very... a lot of benefits and very little downside but there is, to me, a lot of downside to proceed with members of the public or Staff not having... and the Commission not having had to time to review the documents carefully. I mean it was actually just too much to read, much less go through and look up the code and understand anything. There were also a tremendous number of late letters from the public and I would also like to note that the... that Ms. French put in the process slide that we did get comments... written comments from the neighborhood group PNQL, but of course they hadn't commented on the late submissions. So (interrupted)

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Chair Templeton: Do you want to make a motion?

Commissioner Summa: I don't know if anybody else has had... has similar concern. So, I'd like to hear from my colleagues and Staff.

Chair Templeton: Do you want to make a motion and then... and speak to it or do you just want to go around and have other rounds of comments? If you make a motion you can constrict the conversation to whether to continue or not.

Commissioner Summa: No, I'd rather hear my colleague's comments before I make a motion.

Chair Templeton: Ok. Comments may... one of the things process-wise I wanted to throw out to our Commission is do we want to suggest time bounds for our first round of comments? I know many of you have a significant number of questions. So, before we do this round of comments, do we want to discuss that? So, I see several hands raised so, could you... I'm going to write down the order and then you can lower your hand if you want to... don't want to speak to that. Alcheck, Lauing, and Hechtman. Ok. Commissioner Alcheck.

Commissioner Alcheck: Ok, thank you, Chair Templeton. I'll... I mean I'd like to get started tonight. I'll respond I guess briefly I think to Commissioner Summa's sentiment. I'm not... I mean to be perfectly honest, I'd... this... tonight's process seems entirely as we envisioned it would be at the conclusion at our last meeting. So, I'm going to suggest how I remember the evening going. We went extremely late after listening to I think over 100 residents speak and maybe four plus hours of testimony. And I think the conclusion we came to, was that we couldn't have a robust discussion and that we ought to postpone that till we had more energy. It's 7:30 and we made a motion to continue it to today knowing I think full well that Vice Chair Roohparvar wasn't going to be there and Commissioner Riggs was likely not going to attend.

I want to remind everyone on this Commission and I've been on this Commission almost 9-years now. And the requirement that quorum exist... the quorum requirement is... its... the idea here is that the business of the City, the applicants and the citizens of our community deserve for the business of the City to move forward. And the quorum requirement is there so that we operate anytime we satisfy that requirement. And so, it would be a mistake for us to for example operate only when we have all of our Commissioners present because that would

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1 suggest that the quorum requirement was in fact not four, that it was seven if the issue is of
2 importance.

3

4 I think in this particular case Vice Chair Roohparvar's comments would be more appropriate if
5 they were received after tonight's meeting as a reflection of the thought process that she had.
6 So, I would anticipate that Commissioner's comments from Riggs and Roohparvar if they were
7 going to send any, would come between this meeting and the next one.

8

9 And then I want to also just suggest to you that this is not the meeting at which we are likely to
10 make a motion on the item agendized. It's the meeting where we indicate to Staff how to
11 develop the language and the Conditions that would hopefully achieve the support of a
12 majority of us at a follow-up meeting. And I imagine that there would be an opportunity to
13 comment at that meeting because there would be essentially a product that individuals could
14 weigh in on.

15

16 But I think it would be a little... and then I just want to add that the idea that we had last
17 meeting was that we would do a short round of questions. And I want to also acknowledge that
18 the Commissioners who asked questions, largely asked Staff to clarify questions that they had
19 heard that evening from individuals in the community who had come to provide testimony. So,
20 I feel like the idea that the Packet has a lot of new information is a little confusing because the
21 alternative would have been that we spent a lot of time that evening deliberating and Staff
22 would have been like let me look that up and I'll get back to you. And they would have come
23 back later in the evening and said ok, well here's what we... here's how we interrupted this
24 section of the code. And the extent to which one would have been able to incorporate all of
25 that material at that late hour strikes me as less likely than the day that we had today to spend
26 with that information.

27

28 So, I guess my last comment on that topic would be we have more than a quorum here. This
29 process has gone on for way, way too long and I think we have a duty here to do the business of
30 the City and... hold on a second. And so, I'd very much like to proceed and I guess before I jump
31 into some of the thoughts I have I'd get... it might be prudent to just make sure that there's
32 support for continuing here and having this conversation. And again, we are at the end of this
33 discussion which I think we can do. We will have given Staff some idea of what to bring back to
34 us in the form of a... of language and conditions that we can potentially move forward in the
35 process. So, maybe before I go in for my whole review of this we should just shore up whether

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1 we have the support to continue tonight because I would hate to talk for 5 or 6 or 7 more
2 minutes about the EIR and about Conditions for Approval if no one is going to digest it.

3

4 Chair Templeton: I think that's fair. Let's go ahead and do a check-in. Thank you both
5 Commissioner Summa and Commissioner Alcheck for speaking to this part of our process.
6 Commissioner Lauing and Commissioner Hechtman, can you weigh in on your thoughts on this
7 topic. We will definitely do another round if we decide to proceed where you can share your
8 comments.

9

10 Commissioner Lauing: Yes, so my understanding, although it wasn't spelled out in the agenda
11 that came to us, my understanding is that these answers were prepared as kind of a worksheet
12 for tonight. So, that we're now seeing the answers we asked 2-weeks ago and that the first item
13 would be to go over these answers with seven of us here and now five. So, that's not going to
14 take 5-minutes, but I think that's the place to start because that's why we asked the questions
15 is to get the information. So, it seems to me like that's the first step that we have to go through
16 tonight under any circumstances to my knowledge... I mean to my preference before we even
17 considered a continuation.

18

19 The second thing I would say however is that the two documents filed by the lawyers are really
20 substantive legal documents representing both sides. And I don't think it's fair to either side of
21 the issue or to the public not to allow public comment on those substantive documents. Now,
22 that could happen in the next meeting or it could happen now, but I think it should be allowed
23 to happen and our counsel last meeting said that that can happen at the Chair's discretion or at
24 the vote of the PTC. So, what I would be asking for in that regard is to at least allow comments
25 on those new legal documents at some point for the public. So, procedurally that's how I think
26 we are proceeding and should proceed. Thanks.

27

28 Chair Templeton: Thank you so much. Commissioner Hechtman.

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30 Commissioner Hechtman: So, I think we're just talking about the process on whether we want
31 to continue.

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33 Chair Templeton: Yeah and we're checking in, in continue or comment.

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1 Commissioner Hechtman: Ok so I agree with a lot of what Commissioner Alcheck said in terms
2 of our function here at the PTC and our job to move things forward. And if tonight we were at
3 that place where we were going to vote on our recommendations to the Council on the
4 Findings that Staff had already prepared at our direction, then I would say absolutely we need
5 to go forward and it's just a shame that two of the Commissioners aren't here. But it's really...
6 we're really kind of in a unique situation tonight I think. And I can go either way on this
7 continuance item, but what I don't want to do is kind of put one toe in. I mean my thinking is
8 that we have two Commissioners who are not here tonight. Both of them participated in the
9 hearings last September when the first... when the Draft EIR was here. Both of them have
10 insights that would be useful in this process and particularly because our goal tonight would be
11 to give Staff direction on the Findings, to come back to us for our review, and tweaking and
12 hopefully making a recommendation. But we're missing two of the Commissioners who would
13 want to weigh in on that. So, the reality is five of us can give that kind of direction but when we
14 come back the chances are great that we will not have captured the direction that Vice-Chair
15 Roothparvar and Commissioner Riggs want. And so then they're going to provide at the next
16 hearing their direction and Staff's going to have to go away again and I... to me that's a little
17 inefficient. Again, if the majority of us want to do it, I'll abide by it, but for me, that is the
18 reason we might want to continue, understanding that there's a risk that one or more of us
19 may not show up and we could be in the same bind on September 30th or October 14th.

20
21 I don't much know if we are going to continue why we would want to have Staff walk us
22 through their memo tonight? That... and maybe Commissioner Lauing can explain that better. I
23 mean it's thorough, it's detailed, it is answering questions we asked before and I do agree that
24 it's not new information in the sense that it requires additional public weigh-in. It is akin to
25 them rooting through the material and answering those questions in the wee hours last time
26 which would not have triggered a round... another round of public comment. So, like I said I
27 could support a continuance if that's the will of the group or I'm... and I'm also ready to move
28 forward with substantive comments on the EIR and the land use issues. And incidentally, if we
29 do that I'm ready to suggest maybe a timing process for doing those things in terms of rounds
30 of comments.

31
32 Chair Templeton: Alright, we'll get back on that. Are these new hands up? It looks like
33 Commissioner Summa might be next on deck if Commissioner Lauing and Commissioner
34 Hechtman have not put their hands down yet. Commissioner Summa.

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1 Commissioner Summa: Well thank you Chair. We could also hear from you. You could also
2 weigh in on this before I speak again.

3

4 Chair Templeton: Yes, of course. I think that it's entirely possible to do a round of feedback and
5 interaction with the document that Staff provided and still be able to continue to next week. I
6 think that's entirely possible to do and may make our discussion, or not next week but next
7 time, more efficient. We... I do recognize we have a lot of interest in this particular project and
8 there's a potential for a lot of questions. So, we have this opportunity in front of us, it's not that
9 late, if we wanted to do a round of questions and interaction with the responses that would be
10 fine with me. And then we can see if we're ready to do something or ready to continue at that
11 time.

12

13 MOTION #1

14

15 Commissioner Summa: Ok. I'm going to go ahead and make a motion. And I don't disagree with
16 anything that my colleagues have said and my colleague Commissioner Alcheck spoke to getting
17 the City's business done. I agree with that entirely. That's why I've only missed Planning
18 Commission once I believe in 3 ½... over 3 1/2 -years but I think we can all... we can do that just
19 as well on the 30th, and alleviate many of the concerns that I feel the public might have about
20 the lack of transparency about people who might have been unable to speak at the meeting the
21 first time. Quite often when meetings are continued the only people that are prevented from
22 speaking in oral comments are people who had already spoken. So, it can kind of go either way
23 and there's a lot of flexibility but given the late submissions from the applicant and the Staff
24 and others. I think it would serve the end product and the process better to continue this at our
25 next meeting and give everybody a chance to absorb the information. So, that is my motion.

26

27 Chair Templeton: Alright, is there a second? Ok, Commissioner Lauing seconds. Does he need to
28 do that on the recording?

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30 Ms. Tanner: If he can say it for the record that would be (interrupted)

31

32 SECOND

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34 Commissioner Lauing: I'll second it and I have some comments.

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1 Chair Templeton: Ok, would you like to speak to your second?

2

3 Commissioner Lauing: Yes. The reason I think that this might be prudent is that... and I'll be
4 indirectly or directly responding to Commissioner Hechtman's questions. The Packet of
5 questions here is 30 some questions on 25 Pages. From 3 ½-years of experience, I don't think
6 that just processing these at home and coming back and being ready is the optimal way to do it
7 because all of us are going to have questions about the questions. And it would be beneficial for
8 at least five of us to listen to that, which doesn't mean it has to take hours, but I do think that
9 tonight we should just zip through those and see if it resolves everything.

10

11 Chair Templeton: Is that the motion that Commissioner Summa made though? I believe she's
12 making a motion to continue.

13

14 Commissioner Summa: Yeah, sorry, my intention was to make a motion for the reasons stated.
15 To continue this to our next meeting so that we would have time and the public would have
16 time and Staff would have time to deal with the last-minute submissions; one of which we were
17 emailed. That being the submission by the member of the applicant team, the attorney, last
18 night at 8 o'clock and the second the Staff's memo which we received at 2 o'clock by email
19 today. So, I think everyone would be better served by continuing this meeting to our next
20 meeting with the hope (interrupted)

21

22 FRIENDLY AMENDMENT #1

23

24 Commissioner Lauing: Let me, let me try a friendly amendment to see if this in line with that
25 you're saying. So, I would like to have the amendment be that public comment on those two
26 documents be had and that can be had tonight but I think it would be better and more
27 productive to the next meeting. But I think it would be productive tonight to only go over these
28 answers to the questions and not to go beyond that before we continue the rest of it. That's
29 what I was expecting was in your motion because there's benefit to working through these 40
30 questions tonight to see if people are satisfied and they can move on from there.

31

32 Commissioner Summa: If that makes my motion more palatable to you and it would be
33 unpalatable otherwise, I can accept it.

34

35 Commissioner Lauing: I just think it's more productive so yeah, I'd like to have that in there.

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Commissioner Summa: So, you wouldn't want to give any direct impact... I mean I think if we discuss these questions in the memo with Staff it will end up giving them a lot of feeling about where we're going with making... being able to make Findings. But you wouldn't want to specifically touch on the Findings? Just go over the memo?

Commissioner Lauing: Yeah. I just want to have the benefit of five people having opinions on the answers and see if we agree on the answers. So, I'm not suggesting that they go anywhere beyond the answers to those questions before we continue it.

Commissioner Summa: Ok. If that makes it more acceptable to you and it might make it more acceptable to my colleagues. It sounds a little odd because I'll tell you and maybe Albert... Mr. Yang can weigh in on this. It's not the way the meeting was advertised so I don't even know if that's actually legal. I would have thought that the meeting would have to... meeting description, the meeting title, would have to have said that in the 72-hour Brown Act period. So, we might be exchanging what I consider... what I'm concerned is one violation of the Brown Act which is not circulating significant materials within 72-hours... I mean before 72-hours. And we would be trading then a different violation with regards with the expectations the public may have had about what we were doing here tonight. If that makes it any clearer.

Chair Templeton: May I interject and ask Mr. Yang to speak to those comments, those claims.

Mr. Yang: Sure. We don't... I'm not concerned about a Brown Act issue here. The agenda item was advertised as action on these applications and discussion of Staff's answers to the Commissioner's questions is a subset of what was advertised.

Chair Templeton: Thank you.

Commissioner Summa: Are you... oh, I'm sorry. I was going to ask our attorney if he's concerned that the 72-hour notice period was not met by these significant item... additional submissions and Staff Report not coming out early enough? Because one came out... one was given... circulated last night and I think only to the public this morning and the other was circulated even to us only this afternoon. Staff didn't... so that seems like a Brown Act violation to me.

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1 Mr. Yang: So, the Brown Act simply requires that items are provided to the public at the same
2 time that they're provided to member of the legislative body. That's what Staff endeavored to
3 do. Make these materials available to the public as soon they were available to us and available
4 to the Commission.

5

6 Commissioner Summa: So, there's no 72-hour requirement in the Brown Act?

7

8 Mr. Yang: There is a 72-hour requirement for agendas to be posted but that's a description of
9 what's going to be discussed on the evening.

10

11 Commissioner Summa: The materials discussed are not supposed to be posted? I'm really
12 confused because (interrupted)

13

14 Mr. Yang: The requirement under the Brown Act is that materials that are available to the
15 Commission are available to the public at the same time or possible at the same time.

16

17 Ms. Tanner: I hope Commissioner Summa perhaps thinks of it as Staff having a PowerPoint
18 presentation that we don't share necessarily always ahead of time and we present that
19 presentation orally at the meeting. But that's not a violation of the Brown Act to provide that
20 information at the same time that it's provided to the Commission. It's provided to the public,
21 but that meeting is properly noticed 72-hours ahead of time in terms of the agenda. And the
22 agenda item sufficiently covers what is to be discussed in that discussion.

23

24 Chair Templeton: Ok. Do you have more questions Commissioner Summa before we continue?
25 It looks like Commissioner Alcheck also has his hand up.

26

27 Commissioner Summa: I'll stop for now, thank you.

28

29 Chair Templeton: Thank you. Commissioner Alcheck did you want to speak to this motion?

30

31 Commissioner Alcheck: Look, I am extremely frustrated with this conversation and I appreciate
32 that we have a Commissioner that is relatively new, but this is nonsense. If this process... it's
33 nonsense. It's not a Brown Act violation. The... I think our attorney is being exceptionally clear.
34 Having comments from attorneys from both sides are essentially like rebuttal comments that
35 have been submitted just as any other writing... it's not substantial new information. I'm... this

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1 is... the letters from the attorneys are the equivalent of them running out of time during our 3-
2 minute limitation on them and then adding more color in the weeks that follow. And we closed
3 that hearing because everyone that showed up got to speak and if you had more to say, which
4 we said multiple times in the meeting, you can send your comments via email to us. And I just...
5 to me this is advocacy because... and if this project operated in some sort of unique bubble I
6 would say, ok you know what, benefit of the doubt. But there seems to be a real reluctance to
7 do the work that we came here to do. I would be shocked if you didn't already have notes for
8 the meeting we have 2-weeks. That you came to that meeting prepared to talk about. Maybe
9 under the assumption that no one would show up to talk. So, if you aren't prepared 2-weeks
10 ago to have a conversation about everything in this EIR and this whole agendized topic. Then
11 what I'm supposed to assume then in 2-more weeks we will be and I'm sorry the notion that we
12 could all be present in 2-weeks. That's not the way that this is supposed to operate. We were
13 barely capable of finding an alternative date where we could all meet, there's clearly an
14 indication that one of our Commissioners has an ongoing conflict with Wednesday evenings
15 which is in and of itself a problem for that Commissioner, and I think that we need to... there's...
16 I'm virtually positive that each one of us has notes on this item. We've been grappling with this
17 EIR for more than month. Remember when it was published? We had opportunities to meet
18 and discuss with representatives in the community. We have comments and it's not... this is
19 clearly a sensitive issue for the public and I recognize that depending on how this goes there
20 will be preserved winners and losers. But that's not a reason to just put... we have four
21 meetings left. We have four meetings left this year.

22
23 And I'll just respond to one comment Commissioner Hechtman, which is it would be entirely
24 inappropriate for the two Commissioners who aren't present tonight to simply show up at our
25 next meeting and provide alternative guidance. It would be far more appropriate for them, if
26 they were going to provide alternative comments, to listen to this meeting after tonight, and
27 then provide their comments in writing which would be made immediately available to the
28 public. So that those comments could be incorporated very shortly after this meeting takes
29 place into the collective response from Staff.

30
31 So, again, I think... I am... someone said that everyone would be well served if we delayed. I
32 completely disagree with that. No one is well served by the continued delay of this project and
33 the delay of discussion. And the only benefit in my opinion... and maybe I'm being cynical right
34 now, but this is a political season and maybe there's an instinct to not get too muddled into it
35 but we have to operate apolitically here. We have to put our zoning cap hat, we have to put our

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1 planning cap on and we have to say what does our Comprehensive Plan say about this? What...
2 how... what is Staff saying about this? We can't argue about facts. There's this notion that we
3 have to... we're going to go through this thing and say well, how do we feel about their
4 comments? Either we accept that Staff has been interpreting basements in R1 this way or you
5 take the position that it doesn't which would be contradictory to the legal information our... we
6 owe it to ourselves to have (interrupted)

7

8 Chair Templeton: Commissioner Alcheck?

9

10 Commissioner Alcheck: This conversation and I'm very frustrated by this notion that we're
11 going to put it off or that we need to wait for two more Commissioners who may not even be at
12 the next one and this idea that there aren't... we don't already have notes. Everyone should
13 have notes already on this from 2-weeks ago that we've been dying to talk about.

14

15 Chair Templeton: Thank you for speaking to your position. In the interest of either getting to
16 our comments or not, I'm wondering if we should take our vote? It looks like Commissioner
17 Summa has another response. If you could keep it short that would be great, thank you.

18

19 Commissioner Summa: Yeah, I'm sorry, I just don't think we should make things personal
20 between us. I'm not acting in a political way or as an advocate for either side of the project. And
21 I do think Staff's answers to my question confirm that all the materials that we are discussing
22 tonight should have been made public at the same time.

23

24 Commissioner Alcheck: They were made public. They were made public as soon as we got
25 them.

26

27 Chair Templeton: Alright, can (interrupted)

28

29 FRIENDLY AMENDMENT #1 DENIED

30 MOTION RESTATED

31

32 Commissioner Summa: That was my intention and I don't think it's appropriate for other
33 Commissioners to speculate about my motives or nonexistence advocacy. So, I stand by saying
34 that I think... I will restate my motion because I do not wish to... I think it's too complicated to
35 accept the seconder's motion. And so, my idea of continuing this to our next meeting with no

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1 intention of delaying anything but so that everyone has time to absorb the two late
2 submissions that came last night and tonight.

3

4 Chair Templeton: Alright, thank you. Commissioner Lauing do you still second it with no
5 discussion? Continuance with no discussion is the motion.

6

7 SECOND WITHDRAWN

8

9 Commissioner Lauing: No.

10

11 MOTION #1 DIES DUE TO LACK OF A SECOND

12

13 Chair Templeton: Is there a second? Hearing none the motion fails. I'm sorry Commissioner
14 Summa. I do want to encourage the Commissioners just to reflect what Commissioner Summa
15 said. Let's focus on the subject matter and not on individuals if at all possible. I think that would
16 help us conduct a better conversation. So, Commissioner Lauing did you want to make a
17 different motion, or do you want to go into discussion and then discuss continuance at another
18 time?

19

20 Commissioner Lauing: No, I don't have another motion. I was just saying in my original
21 comments that I thought we were going to do that anyway and I wanted to be productive. So,
22 that's why I thought we should go forward with it.

23

24 Chair Templeton: Yes, and if at the end of our discussion we feel that we need to continue that
25 is always a possibility at that time. So now please raise your hands... oh, we were going to
26 discuss how much time. I assume that everybody does have prepared notes and has things they
27 want to speak too. I would say for the first round would everybody be comfortable with like a
28 goal of 5-minutes or 10-minutes? Do you have opinions on that? Commissioner Hechtman.

29

30 Commissioner Hechtman: I think first-round 10-minutes and then a follow up round.

31

32 Chair Templeton: Alright, any thoughts on that? Does that sound good? It's going to be self-
33 control as far as those 10-minutes but the goal here would be to make sure that everybody has
34 a chance to ask questions. And then of course, for any remaining that weren't addressed in

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1 your first segment, we'll go around again if needed until all of our comments are heard. Does
2 that sound reasonable? Alright so the (interrupted)

3

4 Commissioner Lauing: First a procedural (interrupted)

5

6 Chair Templeton: Oh, yes?

7

8 Commissioner Lauing: Just procedural question, so does that mean that you've decided that
9 we're not going to go over the questions? That we're just going to take random comments that
10 Commissioners have?

11

12 Chair Templeton: So yes, I was just speaking to this. The intention is that we continued the
13 previous meeting where we heard all the public comments. And now we would proceed as
14 though we were asking our questions then but instead of being late, late at night it's only 8
15 o'clock. So, it's up to you what you want to discuss. I assume that because we all had those
16 questions, we're very likely to start with those questions. That would be my guess but how you
17 want to spend your time is your choice. Alright Commissioner Lauing, then Commissioner
18 Hechtman. Please proceed.

19

20 Commissioner Lauing: No, sorry, that was on from before. Someone else can go.

21

22 Chair Templeton: Ok, that sounds good. Commissioner Hechtman?

23

24 Commissioner Hechtman: I guess I was... we're moving forward which is great, but I was under
25 the impression after the short presentation that Ms. French made that if we were going
26 forward there might be a supplemental presentation that was intended by Staff, which I think
27 would serve at least part of Commissioner Lauing's desire. Did I understand that right from
28 Staff?

29

30 Ms. Tanner: Our... yes, Commissioner Hechtman, as you all know there are many questions, I
31 believe 28, that we were able to... sometimes you can consolidate questions together. And so,
32 our preference would be if there are specific questions that Commissioners are interested in
33 discussing that we can go there. We have slides by the number of the question so we can have
34 some presentation. It would be quite a lengthy presentation if we did go over each question.
35 And so, some may have been satisfied and so we don't need to go over but if Commissioners do

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1 have questions let's say, I would like to Staff to talk about Question One. We can queue that up
2 right away and talk about Question One during your time. And then I think as Chair Templeton
3 said then maybe in the second round you might provide more opinion let's say if you use your
4 first round for questions or something like that and we have that dialog. The goal was to focus
5 on the questions Commissioners want to talk about instead of maybe all the questions if oral
6 dialog is not necessary.

7
8 Chair Templeton: Commissioners if in response you want to ask for something different, there's
9 material ready for us so it's up to you. Who was up? Commissioner Hechtman, did you want to
10 continue or?

11
12 Commissioner Hechtman: Well I mean I can. I can wade into my comments but my comments
13 don't involve really following up on those questions. I did have an opportunity this afternoon to
14 briefly look at them, including the ones that I had asked which members of the public had
15 asked. So... and it seems that they're addressed there, but unless somebody wants to start with
16 that I'm... I could just kind of wade into my comments on the EIR.

17
18 Chair Templeton: Yeah, you're up and other people can go back to the questions if they choose.
19

20 Commissioner Hechtman: Ok so let me get set up here. Hold on one second. Alright so this is an
21 extraordinarily complicated matter and so I did have to take the time work through and try to
22 organize my thoughts so I could present them coherently, and hopefully in 10-minutes.
23

24 So, we're tasked by Staff with making recommendations regarding the EIR and land-use
25 decisions that will be presented to City Council. And I think it's important for us in this
26 deliberation to distinguish between those two. And I'm going to try to in my comments, starting
27 with the EIR because I feel like there's some misperceptions among the public about its
28 function and some... really some bleed-over of land use issues into the function of the EIR.
29

30 So, the EIR is an informational document. Its purpose is to ensure that our decisions about a
31 project are made with the full understanding of their environmental impacts. It's required to
32 include a reasonable range of alternatives to the project, including a no project alternative.
33 Now, these alternatives are not required to be described in the same level of detail as the
34 project, rather they just have to be described in sufficient detail to allow meaningful
35 comparison to the project that's being advocated by the project applicant.

-
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So, and here's an aspect of CEQA that I think the public frequently misunderstands, CEQA doesn't require the decision-makers to approve the version of the project with the fewest environmental impacts. If it did, no substantial development would ever be approved because the required no project alternative always causes the fewest change to the environment and that is what an EIR measures. It's changes to the environment and I think that's particularly important to remember that regarding this CUP application by Castilleja.

Some of the comments that I've heard and read seem to suggest that we need to look at this project as though it involved a vacant 6-acre parcel where we're deciding between using it as a school versus using it for homes and that's not what CEQA requires to be studied. CEQA... Castilleja is an existing school, it has existing traffic, noise, and those existing conditions are the baseline for the CEQA analysis. And the focus of the EIR is whether the expansion project significantly increases those environmental impacts and if so, can those increases be reduced using mitigation measures to the point where the increases are considered insignificant. So Castilleja has stated they want to pursue Project Alternative Number Four, the reduced underground garage alternative and the Final EIR concludes that the Alternative Number Four, with its mitigations, will not result in any new significant environmental effects.

I do a lot of work on... with CEQA and with EIRs and based on my experience this Final EIR is extraordinary in the detail of its analysis about what really boils down to an existing school that wants to increase its underground footprint and increase enrollment by 30 percent without a significant increase in traffic. I think this Final EIR satisfies every CEQA requirement and far exceeds many of them which I take as a testament to our Staff listening to the community and ensuring that the areas of concerns that they've expressed were discussed and analyzed in the FEIR.

And I believe that the PTC should ultimately recommend to the City Council that it certify the FEIR as complying with CEQA, which is not to say that there are not significant land use issues for us to wrestle with tonight and next time. And I'll get to those but first I want to look at some of the key analyses in the FEIR and explain briefly why I think they satisfy CEQA.

First, on traffic, school traffic to start with. Here is required by CEQA the existing school traffic is the baseline for determining if the project will cause a significant increase. Mitigation Measure 7A requires the school to reduce the daily trip per student rate from 2.7 to 2.4, limit am peak

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1 traffic to an average of 440 trips and prevent any queuing on public streets. There's a four-
2 phased approach to enforcing these requirements with strong penalties if they're not met,
3 including a 10 percent reduction in enrollment. As to construction traffic, as noted in the FEIR,
4 Palo Alto has a standard set of Conditions of Approval addressing construction impacts
5 including the requirement of a Construction Management Plan. This is the approach taken
6 throughout the state, including for projects larger than this one. Now that plan requirement
7 could repetitively be added to as a mitigation measure, but I don't think the EIR is defective
8 without it.

9

10 Turning to noise, school noise; the noise coming from the current existing school is the
11 baseline. The potential noise impacts of the new pool seem to be the primary potential new
12 noise generator. And those are addressed in part by the design of the pool and in part by
13 Mitigation Measure 8A regarding the loudspeaker. As to construction noise, this is addressed in
14 Mitigation Measure 8B involving equipment selection, temporary noise barriers to stay within
15 stated noise limits which in my experience is the standard way construction noise mitigation
16 noise is handled under CEQA.

17

18 Aesthetics, we leave that to the ARB.

19

20 In consistency with Land Use Regulations, the point I want to make here is that the school both
21 is an existing use and an allowed use in this zone with a CUP; which is what they currently have
22 and what they're applying for. Since there's no significant... since there's no change in use there
23 cannot be a significant impact regarding consistency with Land Use Regulations. While there
24 may be significant land use issues to discuss, those issues I believe are not CEQA issues.

25

26 Project alternatives, reduced garage Alternative Number Four. I think that this alternative,
27 which is the version of the project that Castilleja is now pursuing, is described in adequate
28 detail, and fully analyzed for all impacts thoroughly in the FEIR. On the no underground garage
29 alternative, this new analysis is 10 pages long, which is actually longer than the analysis of
30 Alternative Number Four. I think it's remarkably detailed for a CEQA project alternative and
31 remember all that's required is to describe it in sufficient detail to allow a meaningful
32 comparison. I think it does that. Now, I know a couple of my fellow Commissioners voiced
33 dissatisfaction with this alternative at our last meeting, but CEQA is very clear that an
34 alternative is not deficient for not considering every permutation of that alternative. If we want
35 to talk about a vision of Castilleja that has parking at grade without removing the two homes on

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1 Emerson and with more reliance on shuttles, that discussion should be had in the land use
2 context related to our ability to be making the Findings, and not as a criticism of the FEIR. The
3 school relocation alternative was rejected as not meeting the project goals. I know a number of
4 neighbors were disappointed by that, but Castilleja is legally existing at this location. I don't
5 believe the City has any ability to compel the school to move and I think it's unrealistic to think
6 that they might voluntarily do that. But for the proponents for this alternative, many of whom
7 also raised concerns about the construction, I'd say thinking alternatively you really should be
8 careful what you wish for because if the school did move and leave behind this 6-acre
9 residential site, given our housing shortage, there's going to be great pressure on the Council to
10 rezone it to provide more dense housing than the 10,000-square foot lots that predominate in
11 this area. And even if that resulted in just 6,000-square foot lots which is like my neighborhood
12 and lots of others in Palo Alto, that means in round numbers, at least 40 homes, 3,000-square
13 feet each. That's 120,000-square feet of above-ground buildings, same as the school is
14 proposing, plus ADUs plus basements. So, we really don't avoid any of the construction impacts
15 but ultimately depending upon the density, which I think could be even denser than I'm
16 suggesting, The traffic impacts could theoretically be reduced.

17

18 So, in summary I think the FEIR does meet the requirements of CEQA, and trying to pick at it
19 doesn't change that, but it does distract us from the land use issues and Findings that I think
20 should really be our focus.

21

22 And so, with the remaining time, I want to talk about a few of the land use and Findings issues
23 that I see. And as an overview, I want to say that I believe that Castilleja is an asset to our City
24 that needs to be supported and retained. A number of the neighbors asserted that a substantial
25 percentage of their students come from other cities, but from my perspective, that misses the
26 point. The benefit of having Castilleja here is that our Palo Alto residents don't have to drive
27 their daughters to some other City to get a private school education that no one disputes is
28 world-class.

29

30 Over the coming decade, Palo Alto is going to grow and become more dense. Office space is
31 going to be more dense, residential is going to be more dense, commercial is going to be more
32 dense. Castilleja needs to grow too, and I don't find anything in our code quantitatively
33 precluding their growth. And I don't see any Finding frankly that can't be made if and this is the
34 big if, in my view, we adequately address any increase in traffic associated with that growth. I
35 did want to mention on this point that data has been presented about the average number of

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1 students and that's... I find that statistically interesting, but not really relevant to our Finding
2 because our code doesn't set a standard for students per acre or require students to have...
3 schools to have the same density just as it doesn't prevent my neighbor from building a 3,000-
4 square foot house because the other homes in the neighborhood average 2,000-square feet.
5 For frame of reference, the law school I attended in San Francisco had 1,500 students in two-
6 four or 5 story buildings on 2 acres of land. I think that's about 30 times the density Castilleja is
7 seeking to grow too.

8
9 Now counterbalancing that need to support and retain Castilleja is their history of violation of
10 the enrollment cap. They paid a monetary penalty for that but more importantly, they lost the
11 trust of the neighbors. The trust that they would play by the rules and rightfully so. To my
12 thinking, this plays out in the City's enforcement of Conditions of Approval for whatever form of
13 project the City Council approves. Castilleja needs to recognize that it is wholly their
14 responsibility to adhere strictly to every Condition of Approval, that their neighbors will
15 scrutinize their compliance, and if they violate a condition they should not expect soft
16 treatment from the City. Remember the City's legal remedies include revocation of the CUP.

17
18 On retaining the portables, I know this is a concern to the neighbors, but I don't think it's
19 realistically a problem. The portables are going to fill the athletic field where important
20 elements of education occur. I think Castilleja will move those portables out as soon they can
21 move into the new building, but we could include a condition requiring the portables to be
22 moved at an appropriate milestone, and I'd like the Staff to investigate and recommend that
23 milestone. I think this dove-tails with some comments I saw in the Staff At Place Memo.

24
25 The Variance for rebuilding... for rebuilt square footage and I'm getting close to being done.
26 This I think is a really interesting issue. At best, it seems to me there are codes that strongly
27 encourage the proposed modernization in all sorts of ways and you shouldn't have to lose
28 functionality or capacity to accomplish those desirable goals. Back in 2018, there was a well-
29 articulated explanation of how the Variance Findings can be made by the project's attorney and
30 a well-articulated explanation of why the Findings can't be made from the neighbor's attorney.
31 Then there was a brief responding letter from Castilleja's counsel that said a more detailed
32 response would be forthcoming, but I couldn't find that more detailed response in the record.
33 And I like to know from Staff if we ever received that follow up letter specifically on the
34 Variance issue.

35

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1 Number of events, like the operation of the school itself I don't see any issue regarding the
2 school holding these events in the requested quantity so long as the event-related traffic is
3 handled. And I believe that the detailed Conditions of Approval regulating when they can be
4 held and how the traffic is to be managed for different size events is a reasonable starting place
5 and we can adjust the conditions if they prove ineffective in any way.
6

7 And the last thing I wanted to take up briefly is the potential effects on the Bryant Street Bike
8 Boulevard and I really need a better understanding of this issue which I'm hoping Staff can
9 provide. So, I think a substantial portion of the existing school traffic uses Bryant Street
10 according to the traffic reports for the project and I can't tell if the traffic circulation proposed
11 with Alternative Number Four puts more traffic on Bryant or less or keeps it the same. I do
12 know that the garage is designed to avoid queuing that could extent onto Bryant and I haven't
13 seen any evidence that the design isn't effective and won't accomplish that.
14

15 So that's what I wanted to say in my initial round of comments on where we are. And I was
16 hoping that in round two actually, we could, depending upon how the other Commissioners
17 approach this, we can really dialog the Land Use Findings and see where we're having difficulty
18 and see where we're not. So, thank you for listening.
19

20 Chair Templeton: I appreciate that. Pretty good self-regulation there on the timing.
21 Commissioner Alcheck and if you'd like to after him you can raise your hand. Oh, it looks like
22 Ms. Tanner has a comment first. If you could hold off Commissioner Alcheck.
23

24 Ms. Tanner: I'm just wondering Chair Templeton if you wanted Staff to respond to the question
25 about the Bryant Street Bike Boulevard and go into that (interrupted)
26

27 Chair Templeton: Yes.

28
29 Ms. Tanner: Response?
30

31 Chair Templeton: Yes, please.
32

33 Ms. Tanner: Ok, great. Amy and we also have transportation Staff available as well. If we want
34 to queue up the question regarding Bryant Street Bike Boulevard we can provide that response.
35

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1 Ms. French: Sure. I do have some slides that I can pull up. We have Katherine Waugh from
2 Dudek as well as Kenny Jeong from W-Trans. So, I don't know if they have slides to use for this
3 but I'm certainly able to bring those up. Indeed, the existing traffic on Bryant is of course most
4 of the traffic. The project added... the Original Project added traffic but some of... a lot of that
5 was diverted into the garage as that Original Project put all drop off trips in the garage. The
6 Project Alternative Number Four, Disbursed Alternative, does add traffic to the Bryant Street
7 but it is less than a certain threshold regarding bicycle safety. I think in the Staff Report there
8 was some discussion. I can find what Packet Page if that would help and meanwhile I can look
9 up the slides and bring those up.

10

11 Ms. Katherine Waugh, Consultant: Amy? I'll chime in. Hi Commissioners, this is Katherine
12 Waugh at Dudek, Senior Project Manager, and we're the City's environmental consultant for
13 the project. So, under the Project Alternative and I don't have the numbers in front of me like
14 Amy, there would be slightly... so the disbursed circulation alternative, there would be a slight
15 increase in the amount of traffic on Bryant Street. The average daily total volume of traffic but
16 that traffic volume would remain well below the 2,000 trips per day that are considered the
17 City's standard in terms of where it's appropriate to designate a bike route. And so, the traffic
18 volume would remain well below that amount that is considered safe for designating a bicycle
19 route or a bicycle boulevard.

20

21 Ms. Tanner: If that satisfies the Commissioner's question we can continue or we can bring up
22 the visuals if that more detail is desired.

23

24 Commissioner Hechtman: I think that satisfies the question. Thank you.

25

26 Chair Templeton: Thank you very much. Alright, Commissioner Alcheck.

27

28 Commissioner Alcheck: Before I jump, does Staff want to... is there... I'd be interested to know
29 if Staff wanted to respond to the potential legal... the response that legal counsel for the
30 applicant may have sent in reference to the letters that were exchanged last year that
31 Commissioner Hechtman asked about?

32

33 Ms. Tanner: Yes, we are... we need to look into that. As Ms. French said we do have a very
34 thorough record online. We pretty much routinely turn around any correspondence to post on

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1 the website. So, we'll need to look into that and if this is following the September hearing
2 from... that we had with PTC or it's following a different hearing?

3

4 Commissioner Alcheck: No.

5

6 Commissioner Hechtman: No this was in 2018 I find three letters. First one Castilleja attorney,
7 second one the PNQL attorney, and then a short follow up from the Castilleja attorney
8 promising a later letter. And that was all in 2018 and looking forward in the record after that I
9 couldn't find a follow-up letter from the Castilleja attorney.

10

11 Ms. Tanner: We can certainly look for that in our record if the Chair would like. Ms.
12 Romanowsky could also speak to that, but we may have to look back to find that specific
13 correspondence. We could do that.

14

15 Chair Templeton: I think that would be helpful, thank you.

16

17 Commissioner Alcheck: Chair Templeton, do you want to see if the applicant's counsel wants to
18 comment on that?

19

20 Chair Templeton: It looks like hand... are they here?

21

22 Ms. Tanner: Yes, Mindie Romanowsky is a panelist and representing the applicant.

23

24 Chair Templeton: Oh.

25

26 Commissioner Alcheck: I'd be happy to wait another (interrupted)

27

28 Chair Templeton: Yeah, ok, let's do that. I didn't realize they were here. Thank you.

29

30 Ms. Mindie Romanowsky: Hello, can you hear me?

31

32 Ms. Tanner: Yes, we can.

33

34 Chair Templeton: Yes.

35

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1 Ms. Romanowsky: Hi, this is Mindie Romanowsky. We did send a brief letter indicating that we
2 had comments to the PNQL letter sent back in 2018. So, Mr. Hechtman is right in reviewing the
3 record and wondering if a letter was sent from us. We did send a short letter and then we
4 determined that at that point we weren't going to send a long-winded letter going through
5 each of those cases until we got closer to the public hearing process. We wanted the EIR to
6 come out and a number of other things. So, the letter actually is written in draft form and I can
7 finalize it and send it along in the next day or two.

8
9 Really what it is, just to be clear, is a rebuttal to the PNQL letter that came in from their
10 attorney on clarifying the cases that were in that letter and reiterating the reasons why the
11 Findings for the Variance we believe are easily made. So, again, we're happy to submit that
12 letter in the next day or two and certainly would look forward to all members of the public
13 reading it as well.

14
15 Ms. French: If I may, I did... I was online in our exhaustive list of documents and I did find one
16 from October that was from the Castilleja, from Mindie's office to... responding to the PNQL
17 letter. So, October 9th of 2018. I don't know if that's getting at (interrupted)

18
19 Ms. Tanner: Yes, I think that... yeah, we have that. I think as Ms. Romanowsky said the follow up
20 to the follow up is still coming and will possibly be here 2-years later but shortly for the
21 Commission to review.

22
23 Ms. French: That letter was number 19 on the list of 2018 submittals.

24
25 Ms. Tanner: Thanks.

26
27 Commissioner Hechtman: So that answers my question. I wanted to know if I'd missed it in the
28 record so thank you.

29
30 Chair Templeton: Thank you, everybody. Alright, Commissioner Alcheck we're ready for you
31 now.

32
33 Commissioner Alcheck: Ok, thank you. So first of all, I'm really glad you went first because that
34 was an exemplary effort of being incredibly efficient and comprehensive. And I think both this
35 EIR and your comments just now have set a very high bar by which I think... look I too was very

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1 impressed with the EIR and I share that perspective. This... it's like gold level... it's like gold
2 standard work product and I imagine for better or worse we are going to compare future EIRs
3 to this one and I think the community will also expect that.

4
5 I just want to comment a little bit on the At Places Memo and some of the questions. Look, I
6 agree with the sentiment. I don't think actually it would be a good use of time to go over each
7 question. And frankly, a lot of them I think are... I'm glad that we went through the process of
8 seeking Staff input for these questions because I think they deserved responses but some of
9 them are a distraction, right? And I think we have to... I think this Commission would be well
10 served if we treated many of the legal interpretations provided by Staff and City Council as
11 determinative. I think... for example, I spent particular... I mean I read the At Places Memo
12 today as well, I spent a lot of time with it and I looked up each of the sections. For example,
13 when we were talking about the subterranean garage and local zoning. And the code language
14 is complicated, and you have to follow the thread to its end and then you have to double back
15 and find the next section and I think Staff... and I did that. I went one by one through some of
16 those and some of you know that I have a knack for doing that and I found it very sound. I think
17 it would probably be a disservice for us to sort of go back and forth on some of those issues.
18 Particularly because they don't... they'd be a distraction from identifying the conclusions we
19 have about the EIR. In particular, whether we would recommend its certification and then... and
20 so I want to follow Commissioner Hechtman's example and avoid those. I would be happy
21 though if another Commissioner wanted to delve into one to provide some input. So, I'll reserve
22 comments on most of those questions.

23
24 I'd... so I too think that the FEIR meets the requirements of CEQA and I would also support a
25 recommendation that City Council certify it. And I think that... I don't... you went through so
26 many and I don't want to regurgitate. Oh, let me hit some of the high-level ones. There... one of
27 the things that I think needs more clarity is the... is just how the school... ok, let me clarify.
28 Enroll... there's an enrollment increase request which I think is acceptable and there is also a
29 process by which if they fail to meet the specific standard that is set. They don't receive...
30 they're not permitted to have that enrollment increase. And so, I think what we need to do is
31 we need to go to that section and I have in my notes Condition 7... what was it... A, in terms of
32 the process by which we evaluate, and I think my suggestion... my request from Staff would be
33 to come back with a little bit more clarity. One of the... we need more clarification about how
34 the Mitigations in 7A... how the conditions apply for the mitigation in 7A. Is that... am I making
35 sense Ms. French?

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Ms. French: Yes.

Ms. Tanner: Maybe read it and then see if it makes sense? You want to make sure that we understand how if... how they would be able to increase their enrollment by meeting or if they failed to meet the conditions? Is that (interrupted)

Commissioner Alcheck: Yeah so, I'm sort of piggybacking. I agree that... with Commissioner Hechtman's sentiment that Castilleja must hold itself up to a high standard. They need to operate with a tremendous amount of integrity. However, with respect to 7A, there's a little... it's a little unclear how will they be evaluated in terms of the increases... how will their conduct be evaluated and how will be enforcement of these conditions and how will the information be communicated? So, I think if there was more clarity there we could get comfortable with it. I don't think it would be productive for us to sort of from the dais come up with that. I think you guys are in a far better position to do that and I think actually they would... I think they actually touched upon this in their letter also which is... let me... well (interrupted)

Ms. Tanner: I think I do understand the question. That was very clear for Staff to come back with [unintelligible] (interrupted)

Commissioner Alcheck: Ok good.

Ms. French: One is... I'm sorry if I may? So, you're talking about Mitigation Measure (interrupted)

Commissioner Alcheck: Yes.

Ms. French: 7A that's in the EIR (interrupted)

Commissioner Alcheck: Yes.

Ms. French: Then on top of that going forward with the Conditional Use Permit there are conditions that (interrupted)

Commissioner Alcheck: Yes.

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Ms. French: That can get to a finer grain. So, if we're talking about getting to a finer grain beyond mitigations for CEQA purposes, this is what you're bringing up for a nuanced discussion.

Commissioner Alcheck: Yeah, I mean I think there is... so we have this remarkable premise here that there won't be an increased impact as they increase enrollment. And so, the question is, to the extent that they meet that commitment, how are... how is that going to be evaluated, monitored, and then ultimately, I guess stamped? And (interrupted)

Ms. Tanner: And that will be part... we can definitely come back with that and Commissioners would expect to see something of that nature as part of Conditions of Approval; that we often say in Public Work how that would be the teeth, right? So, if... what's the accountability to those standards? How will we know that they've met them or not met them and if they're not met then what happens?

Commissioner Alcheck: Right.

Ms. Tanner: And those would be part of those Conditions of Approval.

Commissioner Alcheck: Yeah and I think largely the clarity that's provided there and I would encourage Staff to connect with Castilleja and make sure they understand the process. Because I imagine they'll also have maybe helpful input for how this can be monitored because they may be just as or even more familiar with how the system will work. That... what opportunities there'll be for which days, which... what would be the schedule for example for the monitoring? I think everybody anticipates that the school will be sort of under a microscope and I understood from Commissioner Hechtman's short experience with this project, right? That he's also already sensitive to the loss of trust, right? And so, what I would suggest is the more clear and more robust those elements of this process are the more comfortable I think all of us will be moving forward. Because like Commissioner Hechtman said, they could ultimately lead in the taking back the Conditional Use Permit and so that's a very serious situation. And my impression from the applicant was that they are prepared to sort of operate under that level of seriousness.

I want to respond to a comment that I think got a little traction last time and before I do that let me just say Commissioner Summa, I apologize if I said something that sounded like a personal

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1 attack. I rarely intend... I know that you're a very passionate advocate for... a passionate
2 contributor and I don't intend ever making anything personal but I... and this isn't directed at
3 you at any way either. But last time there was some traction about this idea of a move or a
4 second location or maybe giving up the location and moving elsewhere. And to me, I want to
5 echo what Commissioner Hechtman said which is that I don't know that I've ever seen CEQA... a
6 CEQA analysis requires that sort of alternative. What would... I think it would be a complete
7 waste of time, but I also think it's not even reasonably legitimate to study what and how many
8 homes could be built on that site. And I am a very strong advocate for housing in the City but
9 being that the current CUP runs with the land, that if this entity decided to move they could...
10 they would likely sell it too... they could likely sell it to another school and that... or to another
11 owner and that they could operate a school. It seems like a poor use of time and resources and
12 that kind of goes back to how comprehensive this EIR already is. That the extent to which they
13 have exhausted so much analysis here suggests to me that we should give a little more
14 difference to that fact that that wasn't included not only because it would meet none of their
15 goals to essentially close their campus and operate in a different location. And so why would
16 they entertain that in any way and why should we evaluate it? Why should we spend any
17 resources evaluating it?

18
19 Ok, I'll move on. The... I agree with... I was uncomfortable when... and I think you remember
20 when it came up last week... 2-weeks ago that concept of the portables because it struck me
21 as... if fell into the category of conditions that you typically see the Building Department provide
22 related to how the site is operated during construction. Everything from the how waste and
23 debris is trucked in and out to operating hours, Noise Ordinances and essentially to me it sort
24 of... it straddled this line of can we... potentially creating a scenario where the objective of this
25 institution, which is to teach, would be hampered if they pursued this project if for some reason
26 we limited the number of portables they could use. So, I share the view that I think that we
27 should avoid that. We should... I'm comfortable with the notion that the portables are
28 temporary. And I imagine that the... if there was a concern we could just articulate to the
29 Building Department that construction equipment and temporary construction... construction
30 infrastructure would be removed at the conclusion of the project but I imagine that's largely
31 their intent.

32
33 I want to go... I want to talk a little bit... you know what, I made a note to talk about this per
34 acre density question. I thought that was interesting that when it came up last time too and
35 one of the interesting things that I learned in the last 2-weeks was that when you look at for

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1 example Palo Alto High School's Campus. I imagine... and they have a much bigger enrollment
2 and I don't even know what their student per acre density is; but if you are... if you carefully
3 walk around that campus what you will notice is that there is a ton of open space. They've got
4 football fields and soccer fields and parking... surface parking lots and they have seven tennis
5 courts and they have basketball courts. And it strikes me as a little unfair to compare the
6 student density... the density if you will because if you were to take simply the structures that
7 are classroom as opposed to the open space. I imagine the numbers would be closer and so it
8 strikes me as a red herring; a non-issue.

9

10 And then I want to talk a little bit about the events. I think when we use the terminology events
11 without definition, that does us a disservice because I share Commissioner Hechtman's view
12 that this is an institution that should thrive in our community. And the events that we are
13 talking about are opening night and night two of the fall play; or the spring play; or
14 parent/teacher conferences; or... I wrote down the notes. Admission's open houses, alumni
15 events, recitals, choir performances, college counseling meetings. I understand that there are I
16 guess testing preparation meetings that take place which are actually not just open to Castilleja
17 students. They serve the community and that's an example of an event that happens at
18 Castilleja that draws more than 50 individuals. My point here is that when we micromanage our
19 schools in this fashion... when we create these conditions and we micromanage the number of
20 events they have. We are harming the children of our community because the school becomes
21 a place for the children to interact and grow and it seems to me like that would be... that
22 counters so many of our Comprehensive Plan's broader visions here. And I want to share with
23 you that there was an effort to reach out to some of the private schools in the surrounding
24 community. Mainly Menlo School for example and there was a question how many events do
25 you... can you guys provide the list of how many events you have a year and the response was
26 no? And the follow up was what do you mean and they were like we don't even keep track.
27 There's no monitoring, there's no oversight. The community around Menlo High School has no
28 interest in micromanaging the number of events that our students put together; whether it's a
29 robotics fair or an art show. So, I want to caution the Commission because the result of the
30 micromanagement of the First Baptist application, which if you may remember there was a
31 request to have overlapping drop-offs of 60 students at a time and that one would be for 2-
32 hours and the other one would be for this 2-hours, and so the drop-offs wouldn't happen at the
33 same time. They didn't... the City Council ultimately decided they didn't want to do it and so at
34 no point could the 120 girls practice together at the facility they had been practicing together
35 for years. And if you don't know that has caused... my understanding is that it has very much

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1 handicapped the I Sing Choir. And the point I'm trying to make is when we micromanage from
2 the dais the operations of these schools I think we tread into territory that can yield results that
3 we have absolutely no idea to just how debilitating they can be. So, what I am comfortable with
4 is the fact that the school has put forward a list. It's on Page 7 of their letter that they
5 submitted last night. It's... they've committed to no events on Sundays, that the athletic
6 competitions would occur on week... only on weekdays and would be over by 8 pm and there
7 would be a maximum of 90 events with more than 50 guests each year. An example of events
8 they've summarized in Appendix B and they even go on to tell you that they would use... how
9 many of those events would be weekend and weekday and to what extent there... how many
10 events would be over 100 people. I just think it's... I think that's remarkable that they are so
11 organized. That they are capable of doing that considering that some of the other private
12 schools are not... were not able to do that. And I think if we're going to make a baseline... if
13 we're going to set a condition with respect to events I think we should start with that and I
14 think we should be careful not to expand on it.

15

16 And then I (interrupted)

17

18 Chair Templeton: A quick time check. You're 18-minutes in, just (interrupted)

19

20 Commissioner Alcheck: Oh gosh, alright.

21

22 Chair Templeton: Yeah.

23

24 Commissioner Alcheck: I'll stop. I want to... the last comment I want to make I guess before the
25 second round is that the... no, I'll just save it, go ahead.

26

27 Chair Templeton: Ok, alright, thank you and may I suggest a 5-minute break? We're a few hours
28 into our meeting, would that be ok? So, it's 8:34, if we could be back at 8:48. I see a few thumbs
29 up and nods so let's do that. Thank you.

30

31 [The Commission took a short break]

32

33 Chair Templeton: It's back on Commissioners. Alright, we've got four of us here. Ms. French, are
34 you back yet?

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1 Ms. French: Yes.

2

3 Chair Templeton: Ok so we're returning from break and I believe we've got at least four of the
4 Commissioners back. We're waiting on Commissioner Lauing who may be getting his camera
5 turned back on, but would you like to start off by making some responses to comments from
6 Commissioner Alcheck?

7

8 Ms. French: Yes, I want to make sure that Katherine is back from her break. I had texted her a
9 little bit because on the... here she is... the CEQA aspects of Commissioner Alcheck's questions
10 or discussion... line of discussion on the events. So, Katherine are you settled?

11

12 Ms. Waugh: Not quite but yes. Excuse me, Commissioners, I've had a really hectic couple of
13 days with personal family. An injured mother in law so, but Commissioner Alcheck was talking a
14 lot about Mitigation Measure 7A and which relates to the TDM Plan that the school has
15 proposed. And so, the mitigation measure itself includes a lot of language revolving around
16 enforcement and monitoring. So, it includes things like requiring the school to install traffic
17 monitoring devices so that they can have an accurate count of the trips that are coming in and
18 out of each driveway every day and that data can be translated or transmitted to the City. And
19 then a program of reporting and I believe... I don't have the text right in front of me but I
20 believe that it requires reports three times per year until the school has demonstrated
21 achievement of the performance standards that are indicated in the mitigation measure. And
22 then the mitigation measure itself is based on the TDM plan that the school has proposed and
23 so there would be a... those reports that come in three times per year would report on the
24 exact mechanisms or strategies that the school has implemented in that academic year to
25 reduce daily and peak hour trips and to monitor the ques to make sure that ques are not
26 extending out onto public streets and causing safety problems. And so, the intent was that
27 there would an adaptive management program that would be implemented over time as each
28 enrollment year brings a different mix of students from different locations. So that the school
29 can find the specific strategies that work the best for that mix of population every single year
30 and work with the City to maintain the performance standards that are expressed in that
31 mitigation measure.

32

33 And then Amy, I'm... I was really focused on that particular mitigation measure. I don't know if
34 there were other CEQA issues that you wanted me to respond too?

35

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1 Ms. French: I'm muted. I think that does it. I would call to your attention the Staff Report that
2 was published today. There is... there are a few questions that were answered about
3 implementation and enforcement; as well as the TDM... the current program for TDM and the
4 proposed enhanced TDM. So, trying to look in real-time there is a mitigation measure cited in
5 there as well and that I guess is on... just had a Packet Page... Page 14 of the memo distributed
6 today.

7

8 Chair Templeton: Alright Commissioner Alcheck, did you have any follow-ups to those or?

9

10 Commissioner Alcheck: You know I'm... I'll go... on my second round I'll put together some
11 notes.

12

13 Chair Templeton: Sounds good. Thank you, Ms. Waugh, and Ms. French. Alright, what
14 Commissioner would like to go next? You can raise your hand. Am I on the right panel to see it?
15 Commissioner Summa, thank you very much.

16

17 Commissioner Summa: I'll go since no one else was ready. So, kind of at a high level I agree with
18 many of the comments already made. And I did not share a concern that some of my colleagues
19 voiced towards the end of our last meeting about wanting housing there or some of those
20 ideas. And the reason is, is because I believe they have every legal right in the world to be a
21 school if they want to be a school. They just... they can be a school there with conditions of use.
22 So, those kinds of different uses don't really seem to be applicable to the situation at hand
23 here.

24

25 I will say that some of the questions in the memo or Staff Report, whatever it is, I think some of
26 these like construction impacts and portables, trees, and pool noise. I think those can be
27 addressed and I think it's really important that they are addressed properly but they aren't big
28 item issues for me. And I think they can... and I think they should be addressed properly.

29

30 I do have a little concern about the Bryant Street traffic impacts and the bike boulevard. I think
31 it's very hard to rely on TDMs. I've often said this on the Commission because they are very
32 hard to enforce. It's hard to get any sort of... it's hard to get good reporting on them if they're
33 self-reported and it's hard to get any enforcement of it in the past. I don't know why Castilleja
34 would be more... it would be more successful in Castilleja's case.

35

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1 I have a very strong concern about history of CUP violations and how the City and the school
2 can work together to mitigate those.

3

4 I don't have a specific list of Conditions of Approval at this time. That seems a little mature...
5 premature. I have higher-level concerns.

6

7 My main problems with the EIR relate to the problem... the very basic problem that it didn't
8 evaluate the alternative that the applicant now prefers which I understand that Staff has an
9 opinion about, but it still remains a problem for me. And now there's even some variations on
10 Alternative Four that were in the attorney letter of last night. I don't think the disbursed drop
11 off was looked at properly in the EIR for me. I understand that Staff doesn't... because it is
12 mitigated a TIRE Impact but it has not in fact reduced the number of cars that will be coming
13 and going towards a school. And the disbursed... while the disbursed model helps the school
14 and the EIR not have that one impact, it doesn't help the neighborhood concerns in my opinion.

15

16 And I... most importantly I believe that the wrong FAR was evaluated in the EIR with regards to
17 the basement and by that I'm referring to not the basement under the academic buildings but
18 the basement that is not under any buildings. So, it is in fact not a basement, it's a parking
19 garage, and people, including the applicant, have gone back and forth on that but it's pretty
20 clear it doesn't meet the definition of basement in our code as they have to be under buildings.
21 And that those buildings, in fact, cannot extend into setbacks unless they're already there and
22 then the building... in the setback I mean and then the basement could be, but that law... and
23 it's... this is a very important issue for me. I don't think our code clearly states that the
24 conditional uses allowed in R1 can have underground parking lots because they are prohibited
25 for residential uses quite clearly. But it doesn't also explicitly state it so I think it's an area in the
26 code that we should do some work on so it isn't a problem but I do believe it's FAR and that
27 would be a problem. And I think it's on Page 4 of the memo/ Staff Report from tonight at the
28 bottom where this question is addressed and I'm trying to go there. 18.12.090(b) states and I'd
29 just like to point out that the B is a mistake. It should be once again little letter a and it clarifies
30 that basements may not be extended beyond the building footprint. And I assume... and this is
31 a question I guess, I assume the underlining or the emphasis there of the main residence is
32 Staff's own emphasis as it's not in the code and that only refers to... that pertains to main
33 residence and setbacks. And in place here does it indicate that you can have an underground
34 parking structure that's not associated with a building above it so... and/or that it would not be
35 FAR. So, for me, the problem is not that it's illegal to have an underground parking structure for

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1 a non-residential use in a low-density residential zone, but that is FAR. And if that FAR... and
2 that correction is a pretty big one for me and unfortunately although there's so much great
3 work in the EIR, I would have to see not a brand new EIR but maybe an addendum or an
4 appropriate way to address that. And to correct the square footage and figure out how to
5 address that so this project can move forward.

6
7 At this time because of some of these problems and others, I would not right now be able to
8 make the Findings for the Variance or for the CUP, but I'm looking forward to being able to do
9 that in the future as we move along.

10
11 And I don't know if that's too general but... and to something that Commissioner Hechtman
12 said the loss of trust with neighbors. I could not agree with him more and I couldn't agree that
13 one of those aspects of having a successful outcome for the Castilleja School is to really for the
14 City and the school to figure out how to make something... how to make a CUP, the conditions,
15 that are everybody takes seriously.

16
17 Oh, and the other problem I have with the EIR that's kind of a big deal for me is I do not think it
18 was correct that the EIR evaluated the number of events that Castilleja currently holds which is
19 vastly beyond what the CUP allows. That seems like kind of as a baseline. Basing a baseline on
20 an illegal and ignoring an illegal Condition of Approval just seems to be wrong to me. In other
21 words, the baseline should be for the EIR should be what they're currently legally allowed, not
22 the... how they... the baseline that is evidence of how they have exceeded their current legal
23 conditions.

24
25 So, and for the most important thing for me, the not counting of the FAR in the underground
26 parking garage which I don't think is addressed in the... on Page 4 and 5 of the document from
27 today. I'll leave it at that for now.

28
29 Chair Templeton: Thank you so much, Commissioner Summa. Perfect timing. Staff, did you
30 want to respond to any of this discussion?

31
32 Ms. Tanner: Thank you, Chair Templeton. We can certainly respond to some of the items that
33 Commissioner Summa raised. I know that with the Bryant Street intersections and Bryant Street
34 Bike Boulevard Commissioner Summa, did you want... having specific questions that you'd like

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1 us to go over and explaining those intersections impacts; or was it more just a comment that to
2 make that function we would need good reporting on the TDM in order to not have impacts?
3

4 Commissioner Summa: Yes, and I do think that there was an omission from the EIR that it didn't
5 specifically study the Bryant/Kellogg intersection and I think that should be amended also. And I
6 would like to see a better discussion of the disbursed car drop off and pick up impacts because
7 like I said it's taking it... all the drop-offs out of the parking garage got rid of the TIRE problem
8 on Emerson in front of basically the last three houses but it sort of redistributed the same
9 amount of traffic around on the other streets so.

10

11 Ms. Tanner: Ok, yeah, we can... if you're interested we can respond to... explain a little bit about
12 Bryant Street and the events and garage but I don't know that it would be different than what
13 we've presented in the report. And certainly, welcome the difference of opinions but we can
14 respond to it, or we can except your comments and we've written down notes on what you see
15 as some of the deficiencies of the application. So, it really is at Commissioner Summa's request,
16 we could respond if she would like.

17

18 Commissioner Summa: Thanks.

19

20 Ms. French: Yes? Ok.

21

22 Ms. Tanner: Is that a yes then? Ok, great.

23

24 Ms. French: I think I heard yes. So, let's see I need to do the thing, sorry. Ok is this showing? Are
25 we good?

26

27 Ms. Waugh: Yes.

28

29 Ms. Tanner: Yes.

30

31 Ms. French: Ok. Oops, ok. This shows daily traffic volumes currently on Bryant. It shows 870
32 trips on Bryant currently adjacent to the project site with the existing drop off conditions which
33 is in these locations. Then this is from the Traffic Impact Analysis. This shows the project, the
34 Original Project, and there you see the TIRE Impact here with 679 trips going from adding 679
35 to 842 here. And then here is the Alternative Four traffic volumes that... this is pre-mitigation

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1 showing the additional 292 and 220 trips here on Bryant. So, yes it does add daily trips so that's
2 different than the intersection. That's TIRE and so then there was the recommendation that
3 involved... so this shows the reduction over here was the original analysis here for TIRE Index
4 with the project that diverted all those trips. And then this is where those trips are added back
5 in to bypass that garage and redistribute. So, then there's recommendations with the TDM and
6 the percentage distribution and I don't know if I've got another slide for that.

7

8 Ms. Waugh: Amy, do you want (interrupted)

9

10 Ms. French: Sorry?

11

12 Ms. Waugh: Do you want me to jump in for a second?

13

14 Ms. French: Yes, yes, tell me if you want me to use these slides too, please.

15

16 Ms. Waugh: Yeah, that... you can stay there.

17

18 Ms. French: Ok.

19

20 Ms. Waugh: So, the slide... the table on the left shows what the... compared to existing
21 conditions what the change in traffic volumes would be if all the traffic for drop off and pick up
22 is routed through the garage. So that's the... on the left that says Table 7-7; but the Table 22, on
23 the right-hand side of the slide, shows what it would have been under the Disbursed Circulation
24 Alternative but based on the percentages of drop off and pick up locations that... I'm sorry my
25 cameras... that Castilleja had proposed. So, when W-Trans, our traffic sub-consultant, evaluated
26 the percentages that Castilleja had proposed, the numbers here that Amy's showing with the
27 red circle on the right-hand slide of the slide. That's... those are the traffic volumes that had
28 been indicated. So, but if you see to the column just left of that red circle, the 170 and 140,
29 that's the number of trips that Bryant Street could tolerate without causing an increase in the
30 Traffic Index... the TIRE Index, excuse me. So, W-Trans had recommended a different
31 percentage of drop off and pick up assignments to the three different locations and by altering
32 that three different drop-offs and pick up locations. The percentage of traffic assigned to each
33 location there's a way to fall below these values that would cause an increase or a TIRE Index
34 impact. So, if you... we can keep the new traffic trips on Bryant Street, segments 10 and 11 at
35 the bottom of that table, if we can keep those increases below 170 and 140 then there's not an

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1 increase in the TIRE Index. The way that the TIRE Index is measured, that increase would be
2 tolerable. It would not result in a meaningful change in the amount of traffic volume on those
3 segments. And by... so that is why Mitigation Measure 7A under the Project Alternative would
4 stipulate certain percentages of students to be dropped off in each of the three different
5 locations. And by managing those three different locations and the percentage of drop-offs at
6 the first year of full enrollment and then managing it with adaptive management technology or
7 techniques over time. Then the City can... and the City and Castilleja can work together to
8 ensure that we don't have a significant increase in traffic volume on any one roadway segment.
9 And so that's where the percentage is that are shown in these bullet points on the slide come
10 into play and those percentages are recommended for the initial year of full enrollment. So that
11 there's not a significant increase in traffic volume on any one roadway segment. And then over
12 time the mitigation measure calls for this adaptive management with enforcement and
13 monitoring and reporting so that the City and Castilleja could work together to make sure that
14 these conditions that persist over time. That we're not having a significant impact occurring in
15 year five or in year eight or whichever year. That they... that those conditions are monitored
16 and evaluated each year to make sure that the impacts remain less than significant.

17

18 Commissioner Summa: Yeah, I'd (interrupted)

19

20 Mr. Yang: I'd like to (interrupted)

21

22 Commissioner Summa: And I understand that but that seems like something that might work
23 on paper, the percentages, but I don't know how that's really going to work out. And so, I think
24 it's... it's kind of seems like something that would be hard to enforce and therefore might not
25 really work to resolve concerns about traffic.

26

27 Chair Templeton: Mr. (interrupted)

28

29 Mr. Yang: I'd like to jump in on just a couple points, if I may?

30

31 Chair Templeton: Yep, I just saw your hand so please go ahead.

32

33 Mr. Yang: I think Commissioner Summa's comments just now about enforceability and practice
34 are similar to those voiced by Commissioner Alcheck, and that's something that as Ms. French
35 said, we will come back with more detail on exactly how Staff used that playing out in practice.

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1
2 But stepping back, I also wanted to respond to one of Commissioner Summa's comments about
3 the... this distribution addressing TIRE Impacts but not actually reducing the number of trips,
4 right? Just sending them into different areas and I guess the reason that the EIR focuses on the
5 TIRE Impact is because that's the one area where the Traffic Study indicated that there might
6 be a significant environmental impact. And to the extent that the Commissioners have some
7 concern about the overall number of trips and how that may impact the neighborhood more
8 generally. I guess I would suggest similar to Commissioner Hechtman's comments earlier that
9 that is not necessarily a deficiency from our point of view from the EIR but it certainly
10 something that is relevant to the Commission's consideration of whether or not the Findings
11 can be made for a CUP for example which requires consideration of the welfare of the City.

12
13 I guess I would like to make a similar comment with respect to some of these questions about
14 interpretation of the code and the location of the subterranean parking facility or whether it
15 should count for FAR. I think that this was expressed in the Staff's written document but the
16 interpretation that was explained in Staff's response is consistent with what Staff has done
17 before and we believe that it's a reasonable interpretation of our code. But these are, we
18 recognize, areas where there is some grey area and again if that's a place where Commissioner
19 or the Commission disagrees with Staff. I think the relevant way of expressing that
20 disagreement is again in the whether or not you can make the Findings for the Variance or for
21 the CUP. Both of which require a Finding that the use is consistent with the Zoning Code and
22 the Comprehensive Plan.

23
24 Chair Templeton: I really appreciate you jumping in on that. Thank you, Mr. Yang.
25 Commissioner Summa.

26
27 Commissioner Summa: I appreciate the reminder that the EIR doesn't cover all the areas of
28 concern for the Planning Commission. I appreciate being reminded of that, but I do think some
29 of these areas of concern will help Staff to understand what might be palatable in the form of
30 Findings. So, I hope that's helpful.

31
32 Chair Templeton: I see Commissioner Alcheck has put his hand back up. I know we need to go
33 to Commissioner Lauing for his full comments. Did you have something topical to Commissioner
34 Summa's comments?

35

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1 Commissioner Alcheck: Yeah well, I guess I would just request that our counsel maybe delve a
2 little deeper into this FAR garage question, and the reason why is because this came up so
3 frequently in community comments. And I spent a good deal of time today with it and I don't
4 profess to be an expert on carports and garages and underground rules, but I think a lot of
5 times the way that our code is written it's very easy to get lost on... in the code sections when
6 we're talking about residential use and non-residential use. And particularly within an R1 and so
7 I agree with you that the statement that the counsel made about this is an interpretation and
8 that's how Staff feels. But I think maybe it would be worth the extra 5-minutes if you walked us
9 through the analysis on Page of... I guess it's 4 and 5 and 6 starting with answers 3 and 4 at the
10 At Place's Memo because if you're not careful it's easy to apply residential rules to this project
11 that would affect how you tabulate FAR. And so, I think for the sake of the community and
12 maybe for the sake of bringing us all a little closer because if that's one of the biggest issues for
13 some of the Commissioners then I think it would really help, actually.

14

15 Ms. Tanner: We could certainly address that question if that would be desirable.

16

17 Commissioner Alcheck: And this goes to a bigger question, right? When counsel gives us
18 guidance, how do we collectively I guess decide to accept it, but I do think in this case it would
19 help to have a little bit more.

20

21 Chair Templeton: Ok so to follow, you're following up on Commissioner Summa's FAR to ask if
22 Staff could (interrupted)

23

24 Commissioner Alcheck: Yeah, I think if they walked us through their answer.

25

26 Chair Templeton: Get into more detail.

27

28 Commissioner Alcheck: Yeah, I think if they walked us through their approach and how they
29 came to the conclusion that it was... first it was a parking facility and it can be subterranean.
30 And then why as a subterranean parking facility qualifies as a basement and therefore doesn't
31 qualify as to be counted as FAR. I think if they walked us through those steps and how other... if
32 it had been in a residential component it may not which I think is what some people have
33 picked up.

34

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1 Chair Templeton: Ok. I'm interested in that too. Is that... Commissioner Lauing, we'll get to you
2 next. I would love to hear Staff on that. Good question Commissioner Summa and
3 Commissioner Alcheck.

4

5 Ms. French: I'm going to (interrupted)

6

7 Ms. Tanner: I think Albert may join in on the response as well with Amy to tackle this one.

8

9 Ms. French: Yes, in the slides at the last hearing I quickly popped four slides up on the screen. I
10 can do that again and take a little more time with Albert on that and consult the memo we
11 prepared today as we do this. I'm going to share my screen again. Sorry, it takes a while to get
12 this uploaded properly. So, I don't know... Albert's unmuted as well but these were the slides
13 that we shared last time to talk about the project and project alternative which both feature an
14 underground parking lot or parking facility. Our Municipal Code does allow parking facilities
15 underground for all types of uses. The memo that we prepared today does discuss the fact that
16 the City does allow underground parking for many types of uses, but not for single-family
17 homes; single-family residential homes; single homes. So, this gives the code sections that talk
18 about placement below grade and it's an accessory facility to this Conditionally Permitted Use
19 that exists. An accessory facility is to provide the parking that's required on-site by the code.

20

21 So, then the second question is should it be counted as Gross Floor Area and this is where
22 Commissioner Summa believes it should. And Staff is of a different opinion that it is not a
23 carport or garage which is counted in the residential zones and that it fits more into the
24 definition of basement.

25

26 Commissioner Alcheck: Can you maybe highlight also how you came to the conclusion that it's
27 a basement even though it's not beneath an existing structure.

28

29 Ms. French: Yes.

30

31 Commissioner Alcheck: Because it's again non-residential.

32

33 Ms. French: Correct.

34

-
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1 Mr. Yang: So, Amy why don't we go, yeah to this slide. So, the... actually Amy, can you go to the
2 next slide on this?

3

4 Ms. French: Yes.

5

6 Mr. Yang: Ok and then is there another slide after this?

7

8 Ms. French: Yes.

9

10 Mr. Yang: Excellent. So, this paragraph at the very bottom of this slide is the definition of
11 basement from the definitions section of our code. That is basement is a portion of a building
12 between the lowest floor and the ceiling above, which is fully below grade or partly below and
13 partly above grade, but so located that the vertical distance from grade to the floor below is
14 more than the vertical distance from grade to ceiling. Basically, this defines basements being
15 any structure with a floor... at least floor of a structure where more than 50 percent of that
16 height is below grade. That is... this is a much more permissive definition than the definition of
17 how we think about whether or not basements are allowed in the R1 or whether or not
18 basements counts for Gross Floor Area. Basement is anything where it's more than 50 percent
19 below grade. So, that's how we reached the conclusion that this underground parking facility
20 could qualify as within the definition of a basement.

21

22 So, then you get to this different question of ok, well even if it is a basement, is it allowed to be
23 in this location in the R1 Zone? So, Amy can you go back to the second slide? And that is
24 addressed in the second set of bullet points. There are two sections of the R1 Zoning Code that
25 deal with the location of underground parking or location of a basement. The first one says that
26 underground parking is prohibited for single-family uses. In our view, this is very clearly limited
27 just to single-family uses. If you go to the corresponding section of 18.52 which is our General
28 Parking Regulations. This exact phrasing is repeated in Table 1 but it is only in relation to
29 residential uses and single-family uses.

30

31 The second question about can it be in this location? Has to do with 18.12.090(a) which says
32 that a basement can't extend beyond the building footprint. So, that's not... again that's not
33 reaching the question of is it a basement or not? It's about can it be in an area where there's no
34 building footprint in the R1? And this is an area where the code is not entirely clear and so Staff
35 looks to prior interpretation and the prior interpretation in this area was that this section only

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1 applied to residential uses in the R1 and not to non-residential uses. And so that's the
2 interpretation that we're following here, but we recognize that this is a potential grey area. So
3 that's how we answer this question, can the parking... can this parking facility be located
4 underground in the location that's proposed? Amy, the next slide, please.

5
6 The other question is regardless of where it's located should it be Gross Floor Area? And for
7 that, we went to the definition of Gross Floor Area which is organized by zoning districts. So, for
8 low residential... low-density residential zones like the R1. There is a provision that says that
9 covered parking shall be included in Gross Floor Area and there's a provision that says that
10 carports and garages shall be included in Gross Floor Area. Here we reproduced the definitions
11 of carport and garage and you can see that they are both limited to residential uses. And the
12 term covered parking is also defined in our code. It's... sorry, we don't have it on this slide here
13 but it... the definition in our code says that covered parking is a carport or a garage. So, we're
14 basically at the same place.

15
16 So, we have a section of our code that says carports and garages was included in Gross Floor
17 Area, but those terms are in turn defined to apply only to residential uses. And that's not what
18 this is so we're left with the question of what is it? And from our perspective and in terms of
19 what we've done historically we have said the closest match is the definition of basement
20 which is what we started on talking about.

21
22 Ms. French: Shall I remain with the slides or stop sharing?

23
24 Commissioner Alcheck: One follow up question would be to what extent does your historical
25 treatment... how relevant is the fact that you have historically treated it this way to your on-
26 going determination; and what would be the consequences of not treating it this way for let's
27 say this project in terms of the suggestion that somehow there's [unintelligible] treatment
28 being applied?

29
30 Mr. Yang: So, in terms of the significance of our prior interpretation or prior application of these
31 codes. I guess I'll just say that it is our practice and has been our practice when there's
32 ambiguity to look to what our prior application has been and use that as our starting point.

33
34 As far as implications of changing our interpretation, I guess I'm... I would need to spend some
35 more time I think before I provided an answer on that and that may not be something that I

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1 would be able to answer in the public forum. So, I think that gets to the question of is there
2 some risk to the City... legal risk to the City of changing its approach. I think what I've said
3 previously on the issue is that if members of this Commission disagreed with Staff's view that
4 we would be comfortable with that being expressed basically through an inability to make the
5 Findings.

6
7 Chair Templeton: Alright thank you all. Let's move onto Commissioner Lauing who has been
8 very patient. Oh, look I see Commissioner Summa. Did you want to respond to that? I'm sorry.

9
10 Commissioner Summa: One tiny quick question and maybe Staff can provide this. I asked it at
11 the last meeting. A list of properties where this interpretation was used. That would be helpful
12 for the discussion.

13
14 Ms. Tanner: I believe Staff did provide this example of the Kol Emeth property and that project
15 as an example. I believe that was the most similar like instance where the garage and the
16 building were not [unintelligible](interrupted)

17
18 Commissioner Summa: Sure, but I think the (interrupted)

19
20 Ms. Tanner: The garage and the basement were not in align. I don't know that there are other
21 examples that meet the same parameters but Staff did review that I believe. Ms. French, that's
22 correct?

23
24 Commissioner Summa: It would just be helpful because, to be honest, what I think I heard the...
25 our City attorney say is that there's a legal question of whether you have to go with the practice
26 that you have been using or with the text as interpreted? And I've heard that before and I've
27 heard it go both ways so that's interesting.

28
29 And also, the Kol Emeth meets a condition... the Kol Emeth parking garage meets a condition
30 that this parking garage does not meet and that is that it is under a building. And it a portion of
31 the building because it's mostly under the building and it's a very different use. So, I just
32 wanted to other examples to help clarify the issue.

33
34 Ms. Tanner: Amy, did you want to address that example?
35

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1 Ms. French: Yes, the garage... the parking facility that's below grade for Kol Emeth on Manella
2 extends beyond the footprint. In fact, into the street setback and that project also had a
3 Variance for Floor Area Overage so... and that was a new facility.

4
5 I also did provide a list with the Staff Report today of private schools in residential zones. Some
6 of those also had Variances and Use Permits etc. There are not many examples of R1 schools
7 etc. with basements. Basements are kind of a more modern occurrence these days so... and
8 also because in residential zones the Gross Floor Area and FAR was not in place for many of
9 these private facilities, non-single-family uses. So, the codes were not so specific back in the
10 day.

11
12 Commissioner Summa: Sure, yeah, oh you know grandfathered in and whatnot, but specific
13 uses where underground parking facilities don't count as FAR when they're not... when you
14 can't describe them as being under the footprint or a portion of any building would be really
15 helpful.

16
17 Ms. Tanner: [unintelligible] the record and see if we can find any other examples beyond Kol
18 Emeth.

19
20 Chair Templeton: Alright, thank you, everyone. Commissioner Lauing would love to hear your
21 comments.

22
23 Commissioner Lauing: First just a review of the process. I really think that massive documents
24 from attorneys and Staff shouldn't be subject to At Place when we're trying to talk about
25 something this complex. So, I haven't been able to go through this my normal three or four
26 times. That's my disclaimer but the areas of the EIR in general from the start, I didn't have a lot
27 of substantive issues there. Commissioner Summa and Alcheck were a little psychic there
28 because that's where most of my red marks are. And that whole discussion there and the slides
29 I thought was really helpful and I think the ambiguity is the really fair word from our counsel to
30 state that. Obviously, so that people understand that it's not 100 percent cut and dry, but on
31 the EIR I only have two or three other little quick questions.

32
33 One is that I think it's an ARB issue to take a look at the modifications needed at Kellogg so
34 that's not in our bailiwick. And then was not... is the... are the shuttles going to be required to

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1 and from lots in order to make the TDM and if so, was that measured in terms of the VMT and
2 Green House Gases and stuff like that?

3

4 Ms. Tanner: Ms. French do you want to answer that or perhaps Ms. Waugh?

5

6 Ms. French: Ok, I'm unmuting myself. Ms. Waugh is available and can address this as she
7 prepared the EIR.

8

9 Ms. Waugh: Yes. So, the... we did not look at any specific amount of shuttles being used. We
10 looked more at the overall program of really reducing the number of day trips; whether that's
11 through shuttles or some other means. And so, then our VMT Analysis was at a broad level and
12 we assumed no increase in the amount of shuttling or other sorts of measures. So, the VMT
13 Analysis that we provided, which I would like to reiterate for the Commission, that we didn't
14 evaluate that against any specific thresholds because of the timing of this EIR relative to the
15 timing of the CEQA guidelines related to looking at VMT. But we did provide a very general
16 picture of what the VMT Analysis or what the VMT generation would be from this project, but...
17 and that analysis assumed no increase in the amount of shuttling or any other TDM measures.
18 So, we looked at simply if we added the new students to the campus at the existing levels of
19 trips... of trips and trip lengths, which is the two metrics that really play into the calculation of
20 the Vehicle Miles Traveled which is what VMT stands for. So, we have that analysis or that...
21 those... that data in the EIR, but it's not used as a threshold of significance because the City
22 hadn't determined a threshold at that point that we were writing the EIR.

23

24 Commissioner Lauing: Right so basically, you're saying in the TDM whether they use a lot of
25 shuttles or no shuttles, the City's indifferent to that. It's just the measurement of the SOB trips
26 or however you want to call that.

27

28 Ms. Waugh: So... right so we measured the amount of trips and the length of trips that would
29 occur if we assumed that the requested amount of enrollment was allowed and based on the
30 current trip patterns. And we did not assign any sort of reduction that's based on the TDM that
31 is proposed.

32

33 Commissioner Lauing: Ok.

34

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1 Ms. Waugh: So that TDM would reduce the amount that we disclosed within the EIR, but we
2 didn't... we also did not draw any significant closures based on TDM or excuse me. Based on
3 VMT because that's not the thresholds that were in place at the time that the Draft EIR was
4 released.

5

6 Commissioner Lauing: Right, ok. That's all I had in addition to what my colleagues have already
7 asked about.

8

9 Chair Templeton: You win the prize for the most efficient. Thank you so much Commissioner
10 Lauing. Alright, I will add some remarks here as well. I appreciated and noted Commissioner
11 Hechtman's comment about land use question versus the FEIR. So, I appreciate you pointing
12 that out.

13

14 I was also concerned about the bike boulevard. That's a major thoroughfare not just for
15 students and faculty at the school, but also a place where we're directing people to drive bikes.
16 So, I appreciate Staff taking the time to clarify that as well.

17

18 I also appreciated Commissioner Alcheck's comments on the similarities between the I Sing
19 conversation and the Castilleja conversation with regards to micromanaging the CUP. I hadn't
20 quite thought about that and there were some similarities in the organizations as well. They're
21 really targeting girl's education which we have to think about that as a community to make sure
22 that we're not somehow creating an equity issue.

23

24 The underground parking, I do want to ask... I know you just went through it. I just want to
25 double-check my understanding. So, to reflect back what I think I heard it should be legal to
26 build an underground... we're not calling it garage. It was a parking structure because it doesn't
27 qualify as a garage, is that correct?

28

29 Ms. French: It's a parking facility and an accessory structure; an accessory parking facility to
30 support the required-on site parking for the Conditionally Permitted Use. Albert, can pile on
31 that if you'd like?

32

33 Mr. Yang: Right so there's two questions is first can it be built underground and we... there are
34 two provisions of the code that potentially speak to that. One is this version that says that
35 single-family uses can't have underground garages unless they get a Variance. And so that

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1 doesn't apply and the other one is a version that says that basements must be located under
2 the building footprint. And that's an area where we've also interpreted to apply only to single-
3 family or sorry, rather only to residential uses. So, that's the question of whether it could be
4 built underground. And then there's a separate question of if it can be built underground
5 should it count towards FAR?

6
7 Chair Templeton: Yeah, I that Commissioner Summa covered the FAR question. I'm just trying
8 to understand the interpretation about the parking structure because how contention is that on
9 not understanding it as a garage?

10
11 Mr. Yang: Yeah so, the issue of is it a basement, or is it a garage is really most relevant to the
12 question of should it be FAR?

13
14 Chair Templeton: Ok so we don't have to worry... I don't have to worry about that. Is... so
15 what... can you just zero in on the suitability of an underground (interrupted)

16
17 Mr. Yang: Yeah.

18
19 Ms. French: It has to do with habitable space too. Let's remember that piece of the equation.

20
21 Mr. Yang: That's also a FAR question but the... just the issue of can you have an underground
22 parking facility in the R1? Our Parking Regulations say you have to have parking on-site, right?
23 You have to have a certain amount of parking on-site and how much you need to have
24 depended on what type of a use you are. If they also say that if you're going to build your
25 parking here's how it has to be designed. You have certain lane widths and drive isles and the
26 stalls need to be this size. And they set out different guidelines for design whether you're at
27 grade, above grade, or below grade. And so, in all of our other zones, there's not really a
28 question of can you have an underground lot? It's just are you going to put it there or not. None
29 of those other zones say you can have an underground lot. It's never expressly authorized. It's
30 just understood from our code that you need to have your parking on site and if you're going to
31 build it below grade, here's how it has to look. If you're going to build it at grade, here's how it
32 has to look, etc.

33
34 So, our view is that it's allowed because it's allowed unless it's not allowed. Unless the R1 Zone
35 has specific provisions that say you can't have it here. And that's where we get to these two

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1 provisions, one of which says you can't have underground parking if you're a single-family use
2 and then the other one that says if you have a basement it needs to be under the footprint.

3
4 Chair Templeton: Ok and just to be completely thorough on this because it is a bit nuanced.
5 Amy, could you please put the language back up (interrupted)

6
7 Ms. French: Sure.

8
9 Chair Templeton: For the relevant passage? The... my understanding is as you read this you're
10 seeing keywords that are saying this doesn't mean zoning. It means use, right? So, for example,
11 R1 Zoning is a residential zoning, but you're talking about single-family use and that's not
12 equivalent to R1 Zoning.

13
14 Mr. Yang: That's right.

15
16 Chair Templeton: Right?

17
18 Mr. Yang: That's right.

19
20 Ms. Tanner: Yeah and especially because part of I think what Mr. Yang single-family saying that
21 the R1 Zone allows certain uses that are not just the single-family home and so you can layer in
22 additionally that. That the use is allowed conditionally (interrupted)

23
24 Chair Templeton: Am I frozen? Can you guys hear me?

25
26 Ms. Tanner: We can hear you.

27
28 Ms. French: Yes.

29
30 Chair Templeton: Ok, I just turned my video off because I was not hearing you at all. I'll put it
31 back on in a minute. I just want to be able to hear your response, thank you.

32
33 Ms. Tanner: Yes, I was adding that in addition to it being an R1 Zone, so that the use of the
34 private schools conditionally permitted within that zone. And so, part of what Mr. Yang is saying
35 is that there's a prohibition for homes within the R1 Zone from having underground parking

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1 garages for their cars, but there's not a prohibition for another use, like a private school; or
2 could be other uses that are allowed in the R1 Zone that are not a home from having that same
3 thing. And the practice is that if it's not specifically prohibited then it is allowed. In this case,
4 particularly it's meeting a code requirement which is to provide parking on site for that
5 conditionally permitted Use. So, hopefully, I didn't infringe on his lawyerly interpretation of our
6 codes but.

7

8 Chair Templeton: Ok, I have two follow up questions. One just to make I understood you
9 correctly that whether or not an underground parking facility is permitted on this site is
10 contingent upon the CUP. Is that correct?

11

12 Ms. Tanner: The use of the school itself is conditionally permitted. That existing... I suppose a
13 Finding could be made around the parking facility specifically Albert, that that doesn't comply
14 and meet the Findings of the... that are needed. But maybe you can help with
15 [unintelligible](interrupted)

16

17 Mr. Yang: Sure, yeah, the CUP authorizes the use which in this case I think would include the
18 accessory facility of the parking. So, when you're making the Findings on the CUP or when
19 you're recommending... making a recommendation on the CUP Findings you could properly
20 consider can I make these Findings for this proposal which includes an underground garage.

21

22 Chair Templeton: Alright, thank you. That clears that up. Alright, thank you. That... I apologize
23 that you had to spend so much time on this, but I think it's a really important nuance and
24 helpful to clarify the overall goal of this discussion. So, just to close it out are you also saying
25 that so long as it's approved as a school we must then also approve an underground garage or I
26 think I heard a little bit of a nuance there in what you just said as well. That we could find
27 differently.

28

29 Mr. Yang: Exactly, yeah. I'm... we're not saying that if you think it can be used as a school that
30 you also need to approve the underground garage.

31

32 Chair Templeton: Ok, it's settled.

33

34 Mr. Yang: I was... I think what I was trying to say earlier is when you're making the Findings, it's
35 for the project as a whole, which in this case the proposal includes an underground garage. So,

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1 you'd have to be able to say I can make these Findings, including the underground garage; or if
2 you can't then you'd say I can make these Findings but conditioned on it not being an
3 underground garage; or I can't make these Findings because there is an underground garage.
4

5 Chair Templeton: So, let's say hypothetically that somehow the applicant found almost enough
6 parking at grade. Would we be allowed to make some kind of Variance or does that... how
7 would you adjust the requirement that's driving the underground garage for those extra
8 parking spaces?
9

10 Mr. Yang: Sure, so there are a few types of discretionary actions that the applicant hasn't
11 applied for, but could. One would be a Parking Adjustment that could reduce the amount of
12 parking for certain reasons. We'd have to look into whether any of those reasons apply, or they
13 could also apply for a Variance to reduce the required amount of parking, and then you'd have
14 to make the considerations of whether those Variance Findings could be made.
15

16 Chair Templeton: Thank you so much for clarifying that. That's my questions. It looks like we are
17 ready for round two. I see Commissioner Alcheck. The rest of you who may want to have
18 additional comments please feel free to raise your hands. I'll get you down in order.
19 Commissioner Alcheck.
20

21 Commissioner Alcheck: Thanks. I... Chair Templeton I just want to... I don't have to go first for
22 round two. Maybe I should let Commissioner Hechtman chime in but I do want to say that I
23 think one of the complicated parts of this is that when we look at this facility we go ok, that's an
24 underground garage. But the definition of garage in our code is entirely a residential element
25 and so I think maybe for the purpose of the discussion we should be careful to refer to this as a
26 parking facility.
27

28 Chair Templeton: Yes.
29

30 Commissioner Alcheck: Garages are a parking facility but not all parking facilities are garages.
31 And I think... I have a question for you which is, I'm trying to follow your sort of line of thought
32 here and it seems to me like the garage meets... helps the project meet a number of goals and
33 to some extent mitigations. So, I'm curious are you having a difficulty accepting Staff's
34 interpretation and thus considering an alternative that doesn't include the garage. And then the
35 follow-up question would be if you're not having a tremendous difficulty, are you concerned

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1 that going in that direction would create other issues... would essentially create... would
2 eliminate some of the mitigation of other impacts that would be maybe equally or more
3 undesirable?
4

5 Chair Templeton: I appreciate you asking that question, and this was my concern at our last
6 meeting. Just really trying to understand to what extent the garage is playing a part in the
7 garage versus no garage part of the FEIR. And I just wondered... really wanted to understand it
8 better because I was looking for something slightly different than... and as Commissioner
9 Hechtman said, they don't have to do every variation. So, I just really wanted to understand it
10 because my concerns around... I mean the parking facility. My concerns around the parking
11 facility are really the entrance and the exit portions and how they will have cascading... may or
12 may not have cascading impacts. And I recognize we have studies and we are very hopeful in
13 our projections that they won't have an impact and we do have some in the Alternative Four
14 with disbursed unloading? What is it?
15

16 Ms. French: Disbursed circulation.
17

18 Chair Templeton: Disbursed circulation. You know we're trying to mitigate that even further,
19 but I'm also very concerned about setting a precedent. And the fact that we have one such
20 underground parking facility and we're going to be building upon that because it set a
21 precedent. This would make it even more and I'm just thinking about what are the alternatives?
22 Have we thought about it? Are we convinced that the Alternative Four is better and to do that I
23 needed to understand what a no parking... I mean a no underground parking facility would look
24 like because in my mind it was a little different than the one that was in the FEIR. So, I was just
25 trying to get to those details and understand it a little bit better. I'm not sure that I have my
26 answer. I'm definitely going to go back and study it a little bit more, but I'm open to hearing
27 your comments as well. I know you all have various different backgrounds and experiences and
28 perspectives. So, I'm listening as well.
29

30 Ms. Tanner: I realize that it may be... not help Chair Templeton, you could ask the applicant to
31 talk a little bit about where the garage plays in their project. That obviously doesn't provide the
32 perhaps environmental review that you're thinking about for the FEIR; but as Mr. Yang said the
33 EIR is one piece of this puzzle that provides disclosure of impacts. And there are other
34 discretionary topics that are not environmental that still are of concern to the PTC that can be
35 weighed in on and could even prevent or help to have the Conditional Use Permit be granted or

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1 not granted and the Findings be made or not made. So, you do have the applicant's team here
2 to opine or provide insight at least into their thinking. Why they didn't ask for a parking
3 reduction, surface parking, etc. and how that does or doesn't fit in with their program
4 objectives and their ultimate goal of raising enrollment and redeveloping the campus.

5
6 Chair Templeton: I'm open to hearing that. My understanding in the FEIR was because it
7 [unintelligible] didn't meet their objectives because of the Parking Requirement. So, if it's
8 different than that, please let me know.

9
10 Ms. Tanner: I don't know if Ms. Kauffman or Ms. Romanowsky want to weigh in on the
11 underground parking facility versus at grade or parking reduction or other permutations of
12 parking that could have been pursued in the program proposal.

13
14 Chair Templeton: I also saw Ms. French getting ready. I don't know (interrupted)

15
16 Ms. French: I just wanted to again mention that this was pretty exhaustively studied about how
17 to avoid a below-grade parking facility with surface parking. And so that was studied as noted
18 earlier in a pretty thorough way, but of course, that was one potential option. Taking down
19 those homes on Emerson and putting a parking lot there to meet the Parking Requirements.
20 Katherine Waugh of Dudek may have more to say on that and of course, the applicant and the
21 applicant's traffic consultant is also here.

22
23 Ms. Waugh: So, this is Katherine Waugh at Dudek and I'd be happy to weigh in just from the
24 CEQA perspective... excuse me... and I understand that it can be unsatisfying from a public
25 desire's perspective; but from the CEQA perspective we needed to look at a project alternative
26 that would meet the City's codes to the best ability possible and still meet the project's
27 objectives. And that is what is required under CEQA and so that's why we looked at an
28 alternative that has a surface parking lot because under the proposed project and the project
29 alternative. Each of those would meet the City's minimum required Parking Standards and so
30 we wanted to have an apples to apples comparison. Is there another way to achieve the project
31 objectives while still meeting the City's codes? Whether... when we start talking outside of
32 meeting those codes and looking at parking adjustments and reductions. Then that is
33 something that is really not within the purview of the CEQA document but is certainly within
34 the City's ability to consider options and alternatives.

35

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1 Chair Templeton: I appreciate that and I thank you for clarifying that the intention was to do
2 apples to apples. I understand that better now and I appreciate the work you did. It was very
3 thorough and very detailed and helpful so thank you for doing that. In my mind, I was kind of
4 imagining like you say some other permutations so I also appreciate the opportunity to explore
5 that here with the applicant. Did someone from the applicant's party want to speak on this?

6
7 Ms. Romanowsky: Hi, this is Mindie Romanowsky again.

8
9 Chair Templeton: Thank you.

10
11 Ms. Romanowsky: I can speak and then if any other member of the team wants to speak they
12 can certainly raise their hand. I just... I'd like to just say that this project has been going on for
13 many years. First, we... when we first contemplated upgrading and modernizing and creating
14 more compatible campus with the neighborhood. We spent hours and hours and meetings and
15 meetings with neighbors and it really was at the suggestion of neighbors to reduce the impact.
16 The slamming of car doors, the headlights, the noise involved with cars and so it was their
17 suggestion at the end of the day and we certainly have meeting minutes and facilitators who
18 we worked with. That really asked us to consider when we were looking at redesigning part of
19 our campus, to do it around a below-grade parking garage and so that was a threshold. I mean I
20 remember taking it to the Board and really making a pitch that this... even though it was going
21 to be a big task to take on... that it was what they wanted because it was going to be impact
22 reducing. And so, we embarked on this entire process with that as a premise and of course,
23 we're curious to know what the EIR would show because we wanted to make sure that really
24 the impacts would be reduced. And we're pleased that they looked at all different options and
25 permutations. At the end of the day having it below grade solves for so many issues that
26 neighbors suffer from. It really... I mean I think the number... someone on the team can speak
27 to this. I think we're going from having something like 60 or 70 cars parked at grade down to
28 something around 20 and so really it is with that level of care that we envisioned to do this
29 below-grade parking facility. And we're building it just to meet... we reduced it to the point
30 where we can save the houses now, we can protect the trees, and we did it in a way that meets
31 the Parking Requirements. Certainly, if the City wants us to build less parking we could consider
32 it, but at the end of the day, we're complying with the code not only from how many spaces
33 we're providing but also as you can read in my letter and I think the Staff Report also echoes
34 this. The legality of the space below grade, while it is complex, I don't doubt that in my 22 plus
35 years of being a land-use attorney. Going through all these definitions is no easy task, but at the

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1 end of the day, you get to an answer whereby you're trying to fit a round peg in a square hole
2 or a square peg in a round hole because it's a use permit and we are entitled to operate a
3 school here. It runs with our land and we can do it and having the right type of parking to offset
4 impacts is imperative and so we feel like the Findings can be made. I would point you to my
5 Variance request letter, my CUP request letter, and all of those various reasons for why it is
6 very well supported not only by your code but certainly by the impacts that it offsets.

7

8 Chair Templeton: Thank you. So, just to sum up, you're saying that you believe that the
9 underground parking facility is the superior solution for you and for the surrounding neighbors?

10

11 Ms. Romanowsky: Yes.

12

13 Chair Templeton: Alright thank you.

14

15 Ms. Romanowsky: And your Comp Plan contemplates this. That hasn't even been brought up
16 tonight, but your Comprehensive Plan envisions more below-grade parking facilities space. So
17 that the neighborhoods and the surrounding vicinities can be pedestrian-friendly and can be
18 offsetting of impacts that are generally felt by cars parking.

19

20 Chair Templeton: I appreciate that. Thank you so much. Alright, that's the end of I think... I was
21 already done with my questions, but I appreciate the chance for you to chime in. Let me who is
22 raising their hands next. Commissioner Alcheck, where there more questions for you?

23

24 Commissioner Alcheck: I came back to you right away because I wanted to
25 [unintelligible](interrupted)

26

27 Chair Templeton: I appreciate that. Thank you.

28

29 Commissioner Alcheck: The reason why I wanted to do that is because I am not struggling with
30 connecting the dots in the nuance of that... those land use definitions. And to be honest I think
31 actually the column at... example is really determinative because frankly, the fact that part of
32 that parking facility that is below grade is underneath some portion of a structure. Doesn't
33 change... if you were going to apply the standard that applies with respect to residential
34 basements, that they have to be within the envelope. It's entirely within the envelope.
35 Residential basements don't get to extend a majority outside of the structure that is supposed

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1 to be above them. And so, if we go down that path where we say well, they're not really similar
2 because a small portion of that garage is underneath this or a portion of that garage is
3 underneath this building. It doesn't really work because you can't extend so far away from the
4 building under the residential application. So, I would suggest that this isn't some ancient
5 application of the code. This is a very recent interpretation and I feel like Staff and maybe
6 Council could be a little stronger in their suggestion that look, not only is this how we
7 interpreted it in the past, but we just interpreted it this way. And the difference between the
8 two isn't fatal to that application, it would be fatal to both. And so, we talk about this a little bit
9 before and I have not thought about what you just mentioned about equity issues, but I will say
10 that one of the major risks of our incredibly thorough process in Palo Alto is that the length of
11 time... and I don't think I mentioned this last time. We are now... there have been over 15
12 Commissioners who have reviewed this project. Is that we get so far away from what we
13 learned in the beginning about the demand... the interest of the neighbors let's say in pushing.
14 What I just heard from the applicant was you asked the question, so you think that this will
15 accomplish your goals and the neighbor's goals? And what I think I heard is we had to work
16 hard to get on board with this idea to satisfy what clearly some real interest on the neighbors'
17 behalf. And now it's become a big part of how they're achieving the objectives of the project
18 and so for us to come back years later and say I'm not really sure this is a solution. I'm... this is...
19 I'm not saying we can't, I'm just saying that's a part of the problem with having a process that
20 takes over 5-years.

21
22 I want to add to a comment that the representative for Castilleja said and it's in the letter which
23 is we... our Comprehensive Plan strongly encourages the use of below-grade or structured
24 parking. I'm quoting it. It says Policy T-5.6. I think that a lot of the comments from the
25 community struck me as the... in many ways the structure that's proposed, the idea that the
26 envelope isn't growing significantly. That there isn't a significant increase or at all of square
27 footage above grade and that they've done this articulation to retain the housing and that a lot
28 of the open space will either be kept at the same level or in fact enhanced. To me is achieving
29 so many of the objectives of our Comprehensive Plan and I think the take away here is while
30 that land use thread is complex. Let's not grow... let's not get too tired and weary as we follow
31 that path that we start to question the whole premise of the underground parking because I
32 think the justification... I think once you get past that interpretation issue and the prior... the
33 way they've interpreted it in the past I think you move forward.

34

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1 One of my questions I think for the Commission and the reason why I'm asking this is because I
2 think we benefit when we have these discussions as a group to sort of figure out what are we
3 sensitive to. Is what else is weighing heavily on this application for some of the other
4 Commissioners because my feedback from Staff tonight would be... and I largely agreed with
5 almost every... I largely agree with every point Commissioner Hechtman made. So, if you were
6 taking notes, you can go down that list as I did and say agree, agree, agree, agree. And I think
7 that if we come back next meeting, I'd like to see Staff bring us language for to make the
8 Findings for recommending approval. I certainly think ... it sounds like we collectively feel
9 comfortable with the Certification of the EIR. And so, the next step would be how deep do we
10 want to get into Conditions of Approval and maybe we need to have a little bit of a
11 conversation right now about are there any issues that would cause a Commissioner to struggle
12 with the Findings that we have to make for the Variance? So, I mean I would like to put this
13 back to the Commission and then have maybe Commissioners who are struggling, and then we
14 can kind of identify the sides of those issues and work through them as we have the last couple.
15 I thought that was productive, but I don't know. Staff, do you feel like there's feedback on any
16 specific item that would help you in our... when you come back?

17
18 Ms. Tanner: Thank you, Commissioner Alcheck. I think certainly if there are as you say other
19 items that Commissioners are really wrestling with and some of them obviously have been
20 named through their comments; where they either... whether it's related to the Findings or
21 other items if it is related to the Certification of the EIR if there's something that's withholding
22 that. Either naming that and having discussion amongst yourselves to see if there's the ability to
23 either be persuaded or information Staff can provide that would help to answer questions
24 that's out there. We certainly could provide it today if we have it, or come back with it. So, that
25 certainly would be helpful if there are other hang-ups if you will be going one way or the other.
26 Making sure we have all of those and then we can answer as much as we can tonight or provide
27 the information in the future.

28
29 Ms. French: I would echo that I would certainly appreciate to kind of finish up with the CEQA
30 piece because we do have consultants, traffic, traffic from our own department as well... I mean
31 our own City Staff at the ready tonight. So, certainly, next meeting focusing on those Findings
32 and Conditions and discussion there would be... I don't know. If we could just get through the
33 CEQA piece of it tonight would be great.

34

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1 Chair Templeton: Do you have a slide that has... so I'm looking at the agenda item and there's a
2 whole bunch of stuff in here. Do you have a slide that shows what all the bullets are of the
3 different parts of this agenda item? So that we know what's in scope and what's out and what
4 we might be able to find tonight and what we might have to continue? It's ok if you don't, I'm
5 not going to put you on the spot.

6
7 Ms. French: I can do that. I have Findings slides, the generic Finding slides. I have... you know
8 from the last? I have the last slide show already.

9
10 Chair Templeton: That's the one. Yes, that one.

11
12 Ms. French: [unintelligible]

13
14 Chair Templeton: I seem to recall you had it. I'm glad. I'm glad you remember where.

15
16 Ms. French: Yeah and then the organizing slide from the last show too that we never really
17 quite got too last time. I'll go get that one.

18
19 Chair Templeton: Ok, alright.

20
21 Commissioner Alcheck: What... and Chair?

22
23 Chair Templeton: Yes?

24
25 Commissioner Alcheck: I guess my understanding was that do we want to collectively begin or I
26 should... this is to Staff and Chair. Do we want to begin that process of making... trying to make
27 certain Findings tonight; or is the goal that we do this all together along with Conditions as
28 one... I guess it would be more than one motion, but in one event if you will? And I would
29 suggest that I don't mind either process, but it might be (interrupted)

30
31 Chair Templeton: What I think I heard Ms. French say and you guys can correct if I'm reading
32 between the lines too much. Is that we have all the consultants for the FEIR here tonight and if
33 we close... if we're prepared to vote on that portion then we wouldn't call them back next time
34 and that might be a... I don't know. That's just kind of... is that what you were saying, Ms.
35 French?

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Commissioner Alcheck: I would just add that I think if we did that piece that you just suggested, it would be a more complete... it would allow the other Commissioners to enter at a cleaner... in a cleaner way because it will to some extent separate the discussion.

Chair Templeton: And I'm open to hearing from any other Commissioners about this too and definitely Staff so.

Ms. French: So, just... because it's always awkward to have the slide deck and not see people. This has the slide that was to help organize last time on August 26th. So, I also have the entire deck of CEQA that was processed last time and everything else as well. Including generic Findings for CUP and Variance so.

Chair Templeton: Thank you.

Ms. Tanner: So, to respond to your question Chair and then of course, if other Commissioners can weigh in. I think it would be fine and I also invite Jonathan Lait to weigh in as he kind of sees how this process might unfold of what could be done tonight and what would be done in the future. Whether its tonight or the next meeting, we certainly would be looking for direction from the PTC regarding bringing back Findings of Approval or Denial and also Conditions of Approval for the Conditionally Use Permit. So, things we've talked about like I'll just say events for example. If that was something that the PTC said yes events and even here's some conditions and Staff would propose some, but we want you [unintelligible] who want to take a look at those and refine them maybe add things.

It is 10:12. I know that's just a... not to say it's so late, but it's getting later. And so, what the Commission may want to do this evening if there is a direction and I think I've heard clearly Commissioner Alcheck and it sounded like he was saying to bring back more in the approval direction. We could hear from Commissioners regarding that or regarding what's preventing them from going towards approval and then continuing to the next meeting if that's amendable. We still would need to obviously discuss lots of things. So, Jonathan, if you want to weigh in a little bit on how we might navigate this remaining portion of this meeting and into the next meeting? That would be great.

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1 Mr. Jonathan Lait, Director: Thank you, Rachael. I think you nailed it and really, we're just
2 looking to the Commission to give us some guidance. I would... I don't think we're asking for the
3 Commission to be drafting Findings on the dais if that was something that you felt that you
4 were at a place where you can give us that direction. Then we would go back and prepare
5 something and present these draft Findings at a future meeting as well as Conditions if it was
6 heading in that direction.

7
8 Commissioner Alcheck: Director Lait, can I ask you a quick question? Would the direction along
9 the lines of can Staff bring us back Conditions of Approval related to maybe the standard
10 application of Construction Conditions and conditions related to hosting events that are in line
11 with the 90 or so events that have been outlined for us I think in two places, but mainly the
12 letter we received last night that outlines the specific events? Can Staff come back with
13 Conditions that speak to that and also, I would suggest that one topic we didn't talk about
14 tonight which is the idea of enrollment increases and a Condition that really helped articulate
15 how the school could achieve its enrollment goal contingent upon meeting the requirements?
16 For example, the mitigation and TDM requirements that have been discussed in the document.
17 So, is that the sort of direction you want and to stay away from specifics?

18
19 Mr. Lait: So, thank you. Yeah, so I guess the gating issue for us is the project... do you foresee
20 that the project is heading toward a possible yes and if the answer to that is yes. Then you
21 would give us direction to prepare draft Findings and draft Conditions of Approval. And if you
22 had... and we've heard some of the comments this evening areas of particular interest that you
23 wanted us to highlight some conditions. We would... we've already taken the notes that you've
24 offered this evening. If there's additional comments we would welcome that, but yes. We
25 would take the approach of then consolidating those comments, our knowledge of the project,
26 the concerns that we understand from the residents, and the project-related interest of the
27 applicant. We would try to draft Conditions that we thought balanced those interests.

28
29 The EIR mitigation measures is just a starting place and as it was mentioned earlier. There are
30 other conditions that would be drafted and recommended to the Commission if that's the way
31 that this is heading. So, we can certainly do that as you indicated Mr. Alcheck. You're on mute.

32
33 Commissioner Alcheck: I support the... I guess my last part of this comment would be I would
34 support the encouraging Staff to return with Conditions of Approval because I think that the
35 project is moving towards a yes. And I think that if we can get certainty and clarity on some of

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1 those components that I mentioned, particularly 7A. And incorporating some of the... avoiding
2 too much micro-management, but incorporating some conditions in terms of operation and
3 events. And then finally specifics about how for example, would the portable... would the
4 infrastructure related to construction be removed at the conclusion of the project. I think that
5 would satisfy some of the comments and I guess my fellow Commissioners have other
6 comments. So, I would like to kick that off, that request off and hopefully other people can
7 chime in.

8

9 Chair Templeton: Thank you. Yes, I do hope to hear from everyone on those items.
10 Commissioner Hechtman has his hand up next.

11

12 Commissioner Hechtman: Thank you. So, I'd like to move my thoughts here in an organized way
13 and again, distinguish between the Certification of the EIR and the other land use Findings that
14 would be required to move forward an approval of the other pending applications. And my
15 view incidentally is that I am supportive of moving forward with the Findings that would be
16 needed to support Project Alternative Number Four. The reduced... which is what the
17 Castilleja's advocating.

18

19 So, first, let me ask a minor question just because I don't know how this is handled. The
20 mitigation measures that we have, particularly related to traffic, are going to require a
21 significant amount of Staff resources over the years to review and track and monitor and bring
22 reports to the Commission or the Council as it may be. What is our cost recovery mechanism
23 that is... if we have on that's typical of the City that we would utilize here to put that burden
24 properly on Castilleja as part of its cost of doing business?

25

26 Ms. French: So (interrupted)

27

28 Ms. Tanner: Sorry, Amy. Go ahead, you got this.

29

30 Ms. French: We do have precedent in the past of course with other projects as part of the
31 Mitigation and Monitoring and Reporting Program to get a deposit again which we charge for
32 our services to monitor. I can think of a project that had below-grade... that had a plume going
33 on. There were hazards and we did something like that. We hired a third-party consultant that
34 looked at the reports that the applicant prepared and was kind of that intermediary to
35 understand those reports. So, something similar here where we have a third party looking at

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1 what's produced and providing expertise that... enforcement, this kind of thing that we may not
2 have enough bandwidth on Staff to handle.

3

4 Commissioner Hechtman: Alright and so... and I'm also interested in again the expense of Staff
5 time being recovered. So, among the Conditions of Approval that I'd be interested in seeing for
6 an approval would be something addressing that. Placing that cost recovery mechanism in
7 place as a part of our enforcement mechanism.

8

9 And then looking more broadly at the EIR Certification, one thing I couldn't find in the very
10 detailed Staff Report and this is the one from 2-weeks is I actually couldn't find the Findings
11 for... that we were being asked to recommend related to Certification to the EIR. Are those
12 available on a slide so that we can at least look at those?

13

14 Ms. French: I don't believe I have put the Findings for CEQA recommendation on a slide. Sorry
15 about that.

16

17 Commissioner Hechtman: Ok. Then it (interrupted)

18

19 Ms. French: It's definitely in the EIR itself.

20

21 Commissioner Hechtman: Well, I'm wondering... well, again what I was thinking and I was
22 keying off what Ms. French said is that if we could reach a majority at least, an agreement on a
23 recommendation on the FEIR tonight. Then really next time we're wrestling just with the land
24 use and we can release all of these... the environmental consultants who are staying with us
25 tonight. But I don't know how we can do that if we aren't able to look at the Findings. I don't
26 know if... I can talk a little bit about the land use issues and while I'm doing that if somebody
27 can dig out of the EIR where those Findings are. Then we can cast them up here so at least we
28 can look at them and see if we might have consensus. Should we do it that way? Should I talk a
29 little bit about the land use?

30

31 Ms. French: Sure, I think Katherine is probably ready with something there. I can see her.

32

33 Ms. Waugh: Yes, yes so, the Findings that would be adopted to Certify an EIR, that really rest
34 with the City Council in this project. And so, we have not actually prepared the detailed specific
35 Findings that would need to be adopted. (interrupted)

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Ms. French: And then part... sorry.

Ms. Waugh: [unintelligible]... that's ok. What I've understood is the PTC's responsibility is to recommend do you feel that this Final EIR meets CEQA's requirements? Have we fully evaluated the project and the project alternatives? Have we fully identified the environmental impacts and the mitigation measures that would be necessary to resolve those impacts where feasible? And it's really... it really rests with the City Council to determine the legal Findings, the Findings of Fact and any Statement of Overriding Considerations should you... should the City approve a project that had a significant and unavoidable impact. And so, we haven't prepared those yet, not knowing which way... how this project ultimately would turn out and so that's why those detailed Findings are not available to the PTC at this moment.

Commissioner Hechtman: Ok. Then if I understand that is the province of the PTC simply to recommend to the Council that they either certify or not certify the FEIR? Is it that simple?

Ms. French: Yes.

Commissioner Hechtman: Ok, alright, so I'm interested in pursuing that recommendation tonight, but maybe not quite yet because I think there might be some... we're just starting this next round; but at the appropriate time that's really where I'd like to take the discussion on the FEIR.

On the land use issues and in the original Staff Report, Staff laid out those Findings nicely for us. And in fact, there are certain issues that I think we don't have to tackle with Project Alternative Number Four like the Tentative Map, right? Which is a function of the originally proposed and studied project but not of Project Alternative Number Four? So, that's a group of Findings that we don't need to pursue and I thought there was one other set of Findings? Somebody can remind us of (interrupted)

Ms. French: Yes.

Commissioner Hechtman: Original project... what's that?

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1 Ms. French: Through the Chair, the setback encroachment into the Embarcadero Road Special
2 Setback is not needed for Project Alternative Four.

3

4 Commissioner Hechtman: Ok, alright, and so does that mean are there two sets of Findings
5 left? One is the basic Findings on the Use Permit and the other is the Findings on the requested
6 Variance. Are those the two areas? Yes, ok.

7

8 So, let me just speak generally, and actually, I'll take the Variance first. I am interested in Staff
9 coming back with Findings for the making of the Variance, but I'm... I think that it's a robust
10 issue. And we've heard from the applicant's attorney tonight that they have a draft of
11 additional points that they are nearly ready to send in and could in a day or two. I would
12 encourage them... not only would I encourage them to do that, but I would like them to do it in
13 the next day or two. And the reason I'd like them to do it soon is because the attorney for PNQL
14 may well also want to chime in with additional thoughts on this new letter and I'm hoping that
15 she could submit that kind of letter to Staff within say a week or so after the Castilleja letter
16 comes in. And then Staff, in addition to its own work, has all of these resources to draw upon in
17 wrestling with this issue and bringing Findings to us. So, obviously, we can't require anybody to
18 write any letter, but I would encourage the applicant and the neighbors' attorney to consider
19 that. So that those concepts could potentially be folded into the work that Staff... our Staff is
20 going to do in time for Staff to have time to work with it before they bring us... bring it back to
21 us at a time when we haven't decided yet.

22

23 Alright so that's the Variance issue and then on the Findings of Approval of the Use Permit. I
24 really don't have any specific guidance that I want to offer Staff other than what I mentioned
25 earlier: That I am interested in a Condition of Approval relating to removal of the portables and
26 whether that's addressed the way Commissioner Alcheck's suggested as part of the
27 construction... end of construction, or in some other way, I leave that to Staff but I'd like to be
28 able to address the neighborhood concerns and that should be simple to do.

29

30 I thought that the controls on the events in terms of traffic and the number of them and when
31 they can occur, I thought that those were all ready baked into the project, but maybe they
32 weren't and they were only in the applicant's letter proposal. And if that... so I would definitely
33 like those folded into Conditions of Approval if they are not already on the list. I think that's an
34 important aspect of the project. So, I think those are my initial thoughts on all the topics.
35 Thanks.

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Chair Templeton: Thank you very much. Commissioner Lauing.

Commissioner Lauing: Ok in this regard basically we're preparing for next week and this brings us back to a couple of issues that we raised during the onset here. So, I think that we should have the Final EIR ready to approve next week and therefore we will benefit from hopefully more than five. Hopefully seven Commissioners and if there's a draft of the other Findings and the CUP, I think that's fine. I would expect that there's going to be some conversation around that when you get into things like TDM measures and a certain number of students per year, otherwise they can't do more and someone's going to want to talk about well if they don't do less maybe they get a penalty. So, I mean there's going to be things like that, that I think we would benefit from all seven people.

And then the second thing is again, what we learned tonight is that we really need to have timely documents. So, as you're getting these things ready, I understand your Packet deadlines are only about a week away. So, I just hope that those dates can be made so that we're not at the same circumstances as tonight getting substantive documents. So, process-wise that's how I would see it going best. To pretty much wrap this up tonight and have the EIR ready to come to the full Commission next time and also a draft set of Findings.

Ms. Tanner: Commissioner Lauing, we might suggest and whoever... if there's a motion to continue to another meeting, October 14th if the will of this group is for the Staff to come back with Findings in addition to EIR Certification. Just so we do have sufficient time to prepare those.

Commissioner Lauing: That raises the question that I was going to ask (interrupted)

Commissioner Alcheck: Sorry, sorry, does that mean that you would do September 30th if it was just the Findings?

Ms. Tanner: We would do September 30th if the discussion was continued. So, earlier this evening there was (interrupted)

Commissioner Alcheck: I see.

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1 Ms. Tanner: Discussion about continuing to have more discussion with potentially a full set of
2 Commissioners and so if more discussion was wanting to be had before giving direction on
3 what Findings to prepare. We could come back with that by the 30th.

4
5 Commissioner Alcheck: But if the... just... I'm sorry Commissioner Lauing. If they... if the group
6 elects tonight to recommend Certification of the EIR and dispenses with that element we would
7 still likely reconvene on October 14th to deal with the Findings responses? Which would give the
8 applicant's attorney and the other attorney plenty of time to get back to you.

9
10 Ms. Tanner: Yes, and Amy do you want (interrupted)

11
12 Commissioner Alcheck: Sorry, Commissioner Lauing.

13
14 Ms. Tanner: To weigh in on this? Sorry, I think part of it we just want to set expectations of like
15 what we can do by when and what's realistic to expect, and a part of it is the distinction
16 between discussing things further and we're coming back with a draft. When we're coming
17 back with a draft, we need more time. If we want to discuss some of these topics, how do we
18 want to deal with them in the Conditions of Approval or just hey, this is really important. Here's
19 why I have questions. We can continue that more quickly then we can come back with
20 prepared Findings to be reviewed and so (interrupted)

21
22 Commissioner Alcheck: Thank you. Totally understand.

23
24 Ms. French: Yeah, this is... I'll just weigh in. This is in the realm of no good deed goes
25 unpunished. I mean we want to come back with everything you want and we want to come
26 back early enough. So that everyone can review it, including the public, and not be putting
27 things under your nose at the last minute. That's not our goal. The other thing is just we do
28 want to have... with a new report with something new that we're providing, not just responses
29 to questions but actual Findings. Anything like that, we want to produce that in enough time for
30 the public to comment on that new information.

31
32 Commissioner Lauing: Right so if that's... if that needs to come back on the 14th there's no
33 reason that the EIR could come back on the same day because they're the same general topic.

34
35 Ms. French: Right.

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Commissioner Lauing: And one of the questions I was going to ask at the end but applies now is what else do we have to accomplish because we don't want to take up all three at the next meeting with just this agenda item? So, what I'm hearing is that maybe on 9/30 we would have some other agenda items, but have the EIR and the Findings proposal on the 14th? Is that what I'm hearing?

Ms. Tanner: Yes, that's correct if that was the direction that we had tonight was to come back with Findings. We could prepare those by October 14th.

Commissioner Lauing: I just... to net it out again I just don't see any benefit of keeping these other two Commissioners from looking at the EIR with the promises that have been made, that they'll be up to speed at the next meeting.

Chair Templeton: I... is...how are we keeping them from looking at the EIR Commissioner Lauing?

Commissioner Lauing: Meaning if we voted on it tonight. If we try to approve the Final EIR tonight and recommend it to Council. Then two Commissioners aren't going to be able to vote. I don't see that there's any (interrupted)

Commissioner Alcheck: May I ask a different question? Are there (interrupted)

Commissioner Lauing: After I finish my statement. I don't think there's any problem in terms of coupling those on the same date if that gives them the opportunity to vote and gives Staff a little bit more time. Go ahead.

Chair Templeton: Ok, that's a very different statement. I just want to be clear we're not keeping them from anything.

Commissioner Alcheck: I'm just curious, are you... do you share Commissioner Hechtman's and my feeling that the... are you feeling favorable about recommending Certification of the EIR? The reason why I'm asking is because if for example four or five us tonight felt that we could... again we don't have to make the legal Findings. We would just simply be indicating that we recommend that the Council Certify the EIR. That the EIR was sufficient I should say. That we

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1 felt that the EIR had explored all the... had achieved all of its requirements and was sufficiently
2 comprehensive to justify finding that it be certified. I mean if a number of... if at least four of us
3 agreed on that, then I think we could... the one benefit would be we would have relieved all of
4 the Staff that has to attend the meeting with respect to the EIR. So, there are some benefits to
5 that, especially if for example we're comfortable making that finding tonight and a majority of
6 what even could be a full Commission feels that way. So, and it might make the meeting shorter
7 next time.

8

9 Chair Templeton: So, thank you for weighing in on that Commissioner Alcheck. Commissioner
10 Lauing, so did you want to indicate a direction your leaning now or did you want to hold off
11 until next time?

12

13 Commissioner Lauing: I think I... I'll say two things. One is I think we can get there with the EIR.
14 I'm not going to make any predictions on what the votes going to be, but I don't see any reason
15 to give up the perspective of those two Commissioners that aren't here because there's no
16 downside to waiting for them to come. Other than the statistics that maybe somebody won't
17 come next time, that's all.

18

19 Chair Templeton: Ok. Did you have any more comments at this time?

20

21 Commissioner Lauing: Nope, I'm good.

22

23 Chair Templeton: Ok. Thank you. Commissioner Summa.

24

25 Commissioner Summa: Thank you. I'm more aligned with Commissioner Lauing's idea of not
26 rushing this process. We really... I felt really rushed. I'm glad that Commissioner Alcheck said
27 that he could go through the 2 o'clock memo report today and fully vet it against cross-
28 referencing in the Municipal Code, but I didn't have time to do that. You must be a speed
29 reader, but so I think there's no reason to rush it. I would appreciate having other... the
30 Commissioners that aren't here tonight, very much appreciate getting their input. And it
31 doesn't actually put it us any... it doesn't get us to the endpoint any closer because Staff still
32 needs to the 14th to get Findings... draft Findings available for us. So, there's no real benefit
33 from doing it that way. So, I would recommend that we have our EIR discussion on the 30th and
34 then proceed to the 10/14 meeting that Director... Assistant Director Tanner mentioned
35 because it's... the endpoints the same on both and it gives everybody more of a chance. And I

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1 would recommend also that we let the public... that we take oral comments on this item on the
2 30th.

3

4 Chair Templeton: Alright, thank you for your comments. Commissioner Hechtman.

5

6 Commissioner Hechtman: So, I said at the beginning of this item tonight when we were talking
7 about the possibility of a continuance so that the two Commissioners could come back and fully
8 be involved in the dialog, I said that I'd feel differently if tonight we were actually making... we
9 had an opportunity to make a decision because if we're ready to roll, any Commissioners that
10 aren't here we just... we roll and they pick up when they come back. And it turns out that that's,
11 in my view, where we are and I didn't appreciate that we could be there at the beginning, but I
12 think there's at least an opportunity here to see if we can put the FEIR issue to rest and move
13 forward and I see two benefits to the possibility of doing that. Number one is the practical
14 benefit that Staff mentioned. We've got a whole host of consultants standing by here that don't
15 need to return if we have already made the recommendation regarding the FEIR, but to me, the
16 bigger benefit from our deliberation and consideration is that once we have made that
17 decision, essentially, we're locking in our view on the mitigation measures that are in the FEIR,
18 and that gives us a very solid building block on the Conditions of Approval that are going to be
19 the heart and soul of our discussion on October 14th. I mean right because we're going to look,
20 for example, we're going to look at Mitigation Measure 7A, which is in the FEIR, and we will
21 have already recommended and we're going to be asking is that sufficient? Is that really doing
22 everything we need it to do and if not, we're going to build a Condition of Approval that
23 dovetails with it; but if everything is in flux, I think that exercise is going to be more difficult. So,
24 that's my feeling why I think there is a benefit to us in finishing the FEIR discussion tonight and
25 focusing on land use on October 14th.

26

27 Chair Templeton: Did you want to make a motion?

28

29 MOTION #2

30

31 Commissioner Hechtman: I will make a motion and if there's a second, I can speak to it
32 although I don't know that I have much more to say. I move that the PTC recommends to the
33 City Council Certification of the FEIR as compliant with all requirements of CEQA.

34

35 SECOND

-
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Commissioner Alcheck: I'd second that.

Chair Templeton: Alright. Commissioner Lauing.

Commissioner Lauing: Since it wasn't agendize as being up for approval tonight, maybe our counsel should speak to that.

Commissioner Alcheck: If you don't mind Chair, after counsel if I could speak to the motion too that'd be great.

Ms. Tanner: [unintelligible] if you can address it or how this was or was not noticed in the agenda item for this evening or for the previous agenda for was just a continued meeting?

Mr. Yang: Yeah, just a moment. So, the... all of the decisions that the Planning Commission ultimately needs to make on this project were agendized tonight. That includes a recommendation on the EIR.

Chair Templeton: Yes, I see it in the... in Page 2 Commissioner Lauing. Hold on, I'll get to you in a second Commissioner Alcheck. Did you find it Commissioner Lauing or (interrupted)

Commissioner Lauing: I (interrupted)

Chair Templeton: Yeah, you're satisfied. Ok.

Commissioner Lauing: I believe you.

Chair Templeton: Commissioner Alcheck.

Commissioner Alcheck: I wanted to just... I want to recognize Commissioner Hechtman, I think that what you said was... it's very insightful. There is always (interrupted)

Commissioner Hechtman: 10-minutes?

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1 Commissioner Alcheck: I'm sorry, Commissioner Hechtman, you should mute. It's ok. I just want
2 to say thank you because one of the really complicated... I actually think that Commissioner
3 Hechtman's point about how it will focus our analysis of the Conditions is so helpful; because
4 what's largely going to take place is some maybe level of comfort or discomfort with some of
5 the mitigation measures in how they're executed. Not necessarily their goal and that's where
6 we can get into the nitty-gritty and I imagine that that will take a lot of time. So, I didn't think
7 about that component and I think it's... these are the insights that help us create better meeting
8 management, better effective management, and I really think that's a... it's a very... it's a good
9 goal for us to have. Because when the next Commissioners come in, instead of starting this
10 dialog again, we can focus on something that I imagine that they'll be able to provide a lot of
11 guidance on. So, I hope that we can find some support for this tonight.

12

13 Chair Templeton: Thank you. Commissioner Lauing, is your hand still up from last time, or is
14 this... you'd like to speak now?

15

16 Commissioner Lauing: No.

17

18 Chair Templeton: Ok.

19

20 Commissioner Lauing: No, sorry.

21

22 Chair Templeton: Anyone else want to speak to this before we take a vote on the motion?
23 Alright (interrupted)

24

25 Commissioner Alcheck: Just Chair, I just wanted to recognize that we would have to have a
26 second motion right to continue the discussion regardless of how this happens. So, just an FYI.

27

28 Chair Templeton: Yes, and we will come back for that. Ok, so Mr. Nguyen.

29

30 Commissioner Lauing: [unintelligible]

31

32 Chair Templeton: Pardon me?

33

34 Commissioner Lauing: Did you have any comments?

35

-
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1 Chair Templeton: I agree with Commissioner Hechtman and I'll be supporting this motion.

2

3 Commissioner Lauing: Ok.

4

5 VOTE

6

7 Mr. Nguyen: Ok, I will take a roll call vote. Commissioner Alcheck?

8

9 Commissioner Alcheck: Yes.

10

11 Mr. Nguyen: Commissioner Hechtman?

12

13 Commissioner Hechtman: Yes.

14

15 Mr. Nguyen: Commissioner Lauing?

16

17 Commissioner Lauing: Yes.

18

19 Mr. Nguyen: Commissioner Riggs is absent. Vice-Chair Roohparvar is absent. Commissioner Summa?

20

21 Commissioner Summa: No.

22

23 Mr. Nguyen: Chair Templeton?

24

25 Chair Templeton: Yes.

26

27 Mr. Nguyen: Ok the motion carries 4-1-2.

28

29 MOTION #2 PASSED 4(Alcheck, Hechtman, Lauing, Templeton)- 1(Summa) -2(Riggs and
30 Roohparvar absent)

31

32 Chair Templeton: Thank you. Commissioner Summa, would you like to make a motion about
33 continuance perhaps?

34

35

-
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1 Commissioner Summa: Sure, but first I'll speak to my no vote.

2

3 Chair Templeton: Please feel free.

4

5 MOTION #3

6

7 Commissioner Summa: It doesn't get us any further along to the 14th to do this. I don't see the
8 real benefit... I don't think the necessity of releasing some Staff serves our highest purpose of
9 providing the best result to the residents and the applicant. So, it seemed to be unnecessary to
10 me, but I will make a motion if you'd like me to, to continue this meeting again with a... with an
11 opportunity for oral comments on this item.

12

13 Chair Templeton: Is there a second?

14

15 SECOND

16

17 Commissioner Lauing: Yeah, I'll second.

18

19 Chair Templeton: Alright and just to clarify, you mean to reopen public comments on this item
20 in the next meeting?

21

22 Commissioner Summa: Yes.

23

24 Chair Templeton: Versus the 14th when Staff Report would come back with new information.

25

26 Commissioner Summa: Yes, because of the missed opportunity this evening for the public and
27 to allow... because we've also... and they can also... public comment can help guide our input
28 about Findings and whatnot. So, I think it would be helpful.

29

30 Ms. Tanner: Can I clarify Commissioner Summa, if it's alright Chair Templeton?

31

32 Chair Templeton: Yes.

33

34 Ms. Tanner: Is your motion to come back on the 30th for further discussion to give direction
35 regarding the Findings; or is it to come back October 14th having prepared Findings?

-
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Commissioner Summa: So, we're not going to have... we're only continuing this it to the 14th now because we don't need to come back with this I guess on the 30th? Is that everybody's understanding?

Ms. Tanner: I see one person nodding but (interrupted)

Commissioner Alcheck: I thought that the reason why we continued to the 14th was because Staff needs time to prepare their responses and that we would have only continued to the 30th if we didn't go through the process tonight but that's what I thought.

Ms. Tanner: Yeah, I just want to (interrupted)

Chair Templeton: Let's get Staff to clarify.

Ms. Tanner: I just want to make sure that we're on the same page. That it's to the 14th (interrupted)

Commissioner Summa: To the 14th when (interrupted)

Ms. Tanner: Staff would bring then bring back (interrupted)

Commissioner Summa: With the opportunity for comments on this item, yeah.

Chair Templeton: Alright, so Staff just to clarify, we don't need to come back on the 30th on this item? The 14th is sufficient, is that right?

Ms. Tanner: Right and let me make sure... I'm going to relay, and I do apologize my brain may be a little mushy, is that we are coming back on October 14th. We're continuing this hearing if Commissioner Summa's motion is... carries. Continuing this hearing to the 14th of October. Staff would come back... I feel like I've heard from two Commissioners that they're supportive of Findings of Approval. We would come back preparing that and as Ms. French said, publish that with enough time for folks to read that and give feedback, and then Commissioner Summa is also saying to have public comment open on that.

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1 Commissioner Summa: But I have a question about that. There is going to be a lot of new
2 information that Staff is going to be working hard to get with the Findings and Condition of
3 Approval and stuff. So, it's automatically not the same hearing. It shouldn't (interrupted)

4
5 Chair Templeton: That's what I thought too Commissioner Summa.

6
7 Commissioner Summa: Continuation.

8
9 Mr. Lait: I'm sorry, let me just chime in here. So (interrupted)

10
11 Commissioner Summa: It doesn't make any sense now.

12
13 Mr. Lait: So, if the Commission... and this does not sound like it's your motion, Commissioner
14 Summa. If the Commission is directing Staff to prepare draft Findings for Approval and draft
15 Conditions. What we're saying is we need until October 14th to accomplish that task. If the...
16 and at that time we would encourage the Commission to reopen public comment so that the
17 public will have an opportunity to offer its perspective on Staff's work relative to the Findings
18 and the Conditions. So, that would be reopening the public hearing. If (interrupted)

19
20 Chair Templeton: I don't think that the Commission has given direction on the Use Permit
21 Findings. We've heard from a couple of Commissioners, but (interrupted)

22
23 Mr. Lait: Right so I'm just trying to layout the process as we understood it and the Commission
24 has a wide range on how it wants to proceed. The motion that I heard Commissioner Summa
25 advance was to continue to September 30th for additional public comment on a material that I
26 believe was transmitted today and yesterday evening. And so that's a different conversation
27 and that doesn't give Staff direction to draft Findings and so we would not expect then to
28 return on the 14th of October if we are continuing this to September 30th.

29
30 Commissioner Summa: So, does Staff want us to continue this hearing to get more clear
31 direction on the Variance and Findings for the CUP and the Variance to the 30th?

32
33 Ms. Tanner: That would be my preference and I believe (interrupted)

34
35 Mr. Lait: Well... I'm sorry (interrupted)

-
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1
2 Commissioner Summa: [unintelligible](interrupted)

3
4 Mr. Lait: Let me just interject here. So, Commissioners, this is your decision. We've presented
5 the information that we have up to this point. If the Commission feels like it needs additional
6 information or it needs to continue its deliberation on the matter and that you're not prepared
7 to give us direction to draft Findings. Then the appropriate course of action would be to
8 continue this to November 30th [note – September 30th]. However (interrupted)

9
10 Chair Templeton: September.

11
12 Ms. French: October 14th.

13
14 Chair Templeton: September. Hold on, hold on, hold on.

15
16 Mr. Lait: I want to be really clear on this.

17
18 Ms. French: September.

19
20 Mr. Lait: If you are not asking us to prepare Findings at this time we would return on September
21 30th for your continued discussion. At that time on the 30th presumably, we would get direction
22 from the Commission to draft some Findings either in support or denial.

23
24 Chair Templeton: Thank you, that's very helpful. I see Commissioner Alcheck's hand. I... just to
25 chime in here, my understanding is that we have not discussed the CUP and the Variance much
26 tonight at all and if we do have an opportunity to do that at our next meeting I would be
27 interested in that. So, just to weigh in on that. Commissioner Alcheck.

28
29 Commissioner Alcheck: I have a different perspective. I think I am comfortable directing Staff
30 based on the favorable intent with respect to this... based on my favorable interpretation of this
31 application. That they could come back with Findings for the Variance and Findings for the CUP
32 and I specified a few areas where I would like to see conditions. Including with respect to
33 disassembly of infrastructure related to the construction... during the ongoing construction. My
34 second one had to do with understanding how the enrollment... the new enrollment number
35 and the conditions that have to be met in order to maintain that or level up to it if you will. And

-
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1 then the third one was conditions that were related to the operation of the school with respect
2 to events and I wanted to suggest that Staff utilize the specific list that was provided this week.

3
4 And so, I would direct... I would make a motion... there's... I think there's a motion on the floor,
5 but when that motion is dealt with. I would make a motion saying that I'd like Staff to return on
6 October 14th with having prepared that. So that as a group of whoever is there, hopefully, a
7 quorum, we can begin to evaluate those Findings and build upon them as Commissioner
8 Hechtman suggested in an effort to make them achieve the goals that we have. And so, I am
9 loath to continuing this hearing for the purposes of continuing this discussion to September 30th
10 and I don't think it would make sense to reopen the hearing on September 30th based on the
11 information we have received.

12
13 I do think that if we returned on October 14th and there's Staff recommendations. Then we
14 would go through the process of allowing the public to comment on what Staff has prepared for
15 us to consider and so that would in fact be new information. So, at the conclusion of this
16 discussion and the motion, I would make that motion. And I would suggest that I think
17 Commissioner Hechtman has also provided some guidance with respect both to the CUP and
18 the Variance. And also, some conditions and I would encourage anyone else to provide some
19 guidance there so that it can be robust. And I think if you're withholding... if you're holding back
20 on giving some notes, even if you don't plan on supporting this motion I'm suggesting I would
21 make, I would still give those notes. So that they're incorporated because if that motion does
22 happen to carry today. Then we will be meeting on October 14th and Staff will have had time to
23 respond to your notes about Conditions of Approval related to the CUP and the Findings related
24 to the Variance.

25
26 Chair Templeton: Ok. Thank you.

27
28 MOTION #3 RESTATED

29
30 Commissioner Summa: I'll restate my motion to make it clearer and thank you for pointing it
31 out Chair, that it was a little unclear. I will... I'm making a motion to continue this meeting to
32 9/30 for a discussion on the Conditional Use Permit and Variance with oral... with the public
33 being able to make comments.

34
35 Chair Templeton: And you mean new commenters, right?

-
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1
2 Commissioner Summa: I'm open to... if it could be just new commenters, I would be open to
3 comments in general. We actually did not have anywhere near 100 at the last meeting. That
4 was actually at our DEIR meeting. There were about 60 and it was about 2-hours. It's 11 o'clock
5 and I think it is a little late to start a discussion about the Variance; which we really haven't
6 discussed at all and we've discussed very little on the Conditional Use Permit. So, I would like...
7 so that's why I made my motion to continue just those two items. If there's an appetite for
8 taking oral comment on the 30th I think that would be appropriate too.

9
10 Chair Templeton: Commissioner Lauing, are you still seconding as [unintelligible](interrupted)

11
12 Commissioner Lauing: Yeah, that's [unintelligible]... that's exactly the question I was going to
13 formulate because I'm trying to understand the objective of that 30th meeting compared to the
14 14th. Is the objective Commissioner Summa, that there would be... beside the public comment
15 which I value, that there would be Commissioner comment but without a proposal on the
16 table? And if so, why is that more productive than having a proposal on the table?

17
18 Commissioner Summa: Because I don't think we've had anywhere near the robust conversation
19 we need to have and it won't slow Staff down. Staff doesn't have to prepare anything for this
20 meeting. We have it all here. It just gives us a chance to talk about it and the public a chance to
21 comment before the meeting on 10/14.

22
23 Commissioner Lauing: Ok so substantially it's for public comment basically?

24
25 Commissioner Summa: And for our discussion, because we haven't had enough of a discussion
26 about either the Conditional Use Permit or the Variance. And I think that could take a while and
27 I think it's too late.

28
29 Commissioner Lauing: Ok, ok, so I'll stay with the second.

30
31 Chair Templeton: Alright, thank you. We've heard from Commissioner Alcheck. Commissioner
32 Hechtman, do you have any comments on this before we take a vote?

33
34 Commissioner Hechtman: Sure, I'm not going to support this motion. First of all, I am opposed
35 to reopen the public hearing until we have some draft Conditions and Findings for the public to

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1 react and comment on. That's really where I want to hear from them next. And incidentally
2 between now and October 14th or whatever date, the public is free to continue to keep writing
3 us letters and I'll keep reading them. What we're talking about is the public hearing so I have an
4 alternate motion that I'd be open to make, but I won't prejudice this one other than to say I'm
5 not supportive of that concept.

6

7 VOTE

8

9 Chair Templeton: Alright, I hear... my thoughts are that I hear that we all want to have a robust
10 discussion about the Conditional Use Permit and the Variance and there are two minds here
11 about how to do that. One is to do that before reacting to draft Findings so that we can provide
12 more direction to those draft Findings and the other is to react to draft Findings because it
13 might be a more productive discussion if we're reacting to something. Both of these seem
14 reasonable to me. I personally prefer to react so I would probably... I will oppose this motion
15 and hope that we have another motion that's [unintelligible]. Ok, are we ready to take the
16 vote? Mr. Nguyen.

17

18 Mr. Nguyen: Yes, I will begin the roll call vote. Commissioner Alcheck?

19

20 Commissioner Alcheck: No.

21

22 Mr. Nguyen: Commissioner Hechtman?

23

24 Commissioner Hechtman: No.

25

26 Mr. Nguyen: Commissioner Lauing?

27

28 Commissioner Lauing: Yes.

29

30 Mr. Nguyen: Commissioner Riggs is absent. Vice-Chair Roohparvar is absent. Commissioner
31 Summa? Commissioner Summa?

32

33 Commissioner Summa: Yes.

34

35 Mr. Nguyen: And Chair Templeton?

-
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Chair Templeton: No.

Mr. Nguyen: Ok the motion does not carry.

MOTION #3 FAILS 2(Summa, Lauing) – 3(Alcheck, Hechtman, Templeton) -2(Riggs and Roohparvar absent)

Chair Templeton: Thank you. Commissioner Hechtman.

MOTION #4

Commissioner Hechtman: I'd like to make a motion. I move that the PTC direct Staff to... let me start over, see if I get this right. Albert can help me if I falter. I move that we continue this PTC hearing to our October 14th hearing... meeting. That at the October 14th meeting Staff present us with draft Findings and Conditions of Approval for Project Alternative Number Four and that at the October 14th hearing there be a reopening of the public hearing to allow the public the opportunity to comment on the draft Findings and the draft Conditions of Approval.

Chair Templeton: Is there a second?

SECOND

Commissioner Alcheck: Second.

Chair Templeton: Ok. Would either you like to speak to this? Ok, Commissioner Hechtman.

Commissioner Hechtman: So, just very briefly and I thought Chair Templeton, you summarized it really nicely. That doing it this way... first of all, voting for this motion is not a vote to approve the project. It's just a vote to take the next step and look at Conditions of Approval that are really going to shape the project. And so, I encourage all the Commissioners to be open to that, but as Chair Templeton said, it really gives us something to react to and focus on and allows us I think to be more productive when we come back on the October 14th and fine-tune Conditions and Findings and I don't mean to diminish that. There can be some major changes contemplated as... in the proposed project at part of that depending upon how we as a group

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1 feel about the project. And also, I think that this will give the absent Commissioners an
2 opportunity to reconstitute themselves, review in advance the drafts and really be ready for a
3 full robust discussion when we come back on the 14th.

4

5 Chair Templeton: Thank you. Commissioner Alcheck, did you want to add to that?

6

7 Commissioner Alcheck: I echo all those sentiments and I also think maybe one unforeseen
8 consequence of the alternative would have been that if we had reconvened on the 30th and
9 then given direction to Staff. I don't imagine that they would have been able to return on
10 October 14th. I think it would have likely had meant that we wouldn't have met again until
11 November and that would have been a consequence that I think was unintended. So, I think
12 this sounds like a little more than... I want to echo that I hope that the individuals that
13 Commissioner Hechtman mentioned earlier do follow up and communicate their thoughts to us
14 and do so timely. So, that they can be incorporated in some of Staff's work. I really do think that
15 would be valuable to me.

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17 Chair Templeton: Thank you. Commissioner Lauing or Summa, would you like to speak to this
18 before we vote? No, ok. Mr. Nguyen, please conduct a vote on this motion.

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20 Mr. Nguyen: Commissioner Alcheck?

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22 Commissioner Alcheck: Yes.

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24 Mr. Nguyen: Commissioner Hechtman?

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26 Commissioner Hechtman: Yes.

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28 Mr. Nguyen: Commissioner Lauing?

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30 Commissioner Lauing: Yes.

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32 Mr. Nguyen: Commissioner Riggs is absent. Vice-Chair Roohparvar is absent. Commissioner
33 Summa?

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35 Commissioner Summa: No.

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1. Spokespersons that are representing a group of five or more people who are identified as present at the meeting at the time of the spokesperson's presentation will be allowed up to fifteen (15) minutes at the discretion of the Chair, provided that the non-speaking members agree not to speak individually.
 2. The Chair may limit Oral Communications to 30 minutes for all combined speakers.
 3. The Chair may reduce the allowed time to speak to three minutes to accommodate a larger number of speakers.

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Mr. Nguyen: Chair Templeton?

Chair Templeton: Yes.

Mr. Nguyen: Ok, the motion carries 4-1-2.

MOTION #4 PASSED 4(Alcheck, Hechtman, Lauing, Templeton) – 1(Summa) – 2(Riggs and Roohparvar absent)

Chair Templeton: Thank you. Commissioner Summa, did you want to speak to your no vote?

Commissioner Summa: Oh, just to say that I would have to agree with... disagree with Commissioner Hechtman. I don't think that... I think that we've skipped an opportunity to give a full hearing process to the public and the applicant by not meeting on the 30th. And I think that's a shame.

Chair Templeton: Alright, thank you. So, this item has been continued and we can move onto the next agenda item.

Commission Action: Motion to continue by Summa, fails due to lack of a second

Commission Action: Motion to approve by Hechtman, seconded by Alcheck. Carries 4-1-2 (Summa against; Riggs and Roohparvar absent)

Commission Action: Motion to continue by Summa, seconded by Lauing. Fails 2-3-3 (Alcheck, Hechtman, and Templeton against, Riggs and Roohparvar absent)

Commission Action: Motion to continue by Hechtman, seconded by Alcheck. Carries 4-1-2 (Summa against, Riggs and Roohparvar absent)

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1. Spokespersons that are representing a group of five or more people who are identified as present at the meeting at the time of the spokesperson's presentation will be allowed up to fifteen (15) minutes at the discretion of the Chair, provided that the non-speaking members agree not to speak individually.
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