PLANNING & TRANSPORTATION COMMISSION MINUTES

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Wednesday, February 23, 2005
REGULAR MEETING at 7:00 PM
Council Chambers
Civic Center, 1st Floor
250 Hamilton Avenue
Palo Alto, California 94301

***ROLL CALL:* 7:03 p.m.**

Commissioners:	***Staff:***
Phyllis Cassel – Chair	*Steve Emslie, Planning Director*
Bonnie Packer – V-Chair	*Dan Sodergren, Special Counsel to City Attorney's Office*
Lee I. Lippert	*Lisa Grote, Chief Planning Official*
Karen Holman	*Amy French, Current Planning Manager*
Patrick Burt	*Julie Caporgno, Advance Planning Manager*
Michael Griffin	*John Lusardi, ZOU/Special Projects Manager*
Annette Bialson	*Clare Campbell, Planner*
	Robin Ellner, Staff Secretary

AGENDIZED ITEMS:

1. 2005-2010 Proposed Capital Improvement Program
2. Individual Review Program Annual Update
3. Zoning Ordinance Update**:** Review of draft Multi-Family Residential (RM-15, RM-30, and RM-40 districts)

Chair Cassel: Good evening. Let me call the meeting of the Planning and Transportation Commission for February 23 to order. Would the Secretary please call the roll? Thank you.

The next item on the agenda is Oral Communications.

ORAL COMMUNICATIONS. Members of the public may speak to any item not on the agenda with a limitation of three (3) minutes per speaker. Those who desire to speak must complete a speaker request card available from the secretary of the Commission. The Planning and Transportation Commission reserves the right to limit the oral communications period to 15 minutes.

Chair Cassel: I have no cards so that item is closed.

CONSENT CALENDAR. Items will be voted on in one motion unless removed from the calendar by a Commission Member.

Chair Cassel: There are no items on the Consent Calendar.

AGENDA CHANGES, ADDITIONS AND DELETIONS. The agenda may have additional items added to it up until 72 hours prior to meeting time.

Chair Cassel: There are no Agenda Changes, Additions or Deletions that I am aware of so that item is closed.

We are now into New Business. The first item on the agenda is a public hearing on the 2005-2010 Proposed Capital Improvement Program. That is a schedule for our review for the Capital Improvement Program as proposed for next year. Would Staff like to make any comments on that?

NEW BUSINESS:
Public Hearings.

1. **2005-2010 Proposed Capital Improvement Program:** Adoption of Capital Improvement Program Schedule and Selection of Sub-Committee.
SR Weblink: http://www.cityofpaloalto.org/cityagenda/publish/planning-transportation-meetings/51.pdf

Ms. Julia Caporgno, Advance Planning Manager: Thank you. The only thing I wanted to mention is we will be coming back to you, if you adopt this schedule, on March 22 with both Capital Improvement program descriptions as well as the Comprehensive Plan Implementation Plan Status Report. Then the committee will make recommendations to the full Planning Commission in April and then it will be forwarded to Council.

Chair Cassel: Okay, I just noticed now that the 22nd is the date of the City Council meeting, correct, not the date of our meeting? As far as I know we are not scheduled for a meeting that week.

Ms. Caporgno: The March 22 date is the date that the CIP descriptions will come to you and the discussion will be held on the 30th, I'm sorry, that is correct.

Chair Cassel: So it is going to be mailed out to us or something on that date. Thank you. I have three people who are willing to serve on this committee Pat Burt, Lee Lippert and Karen Holman. So that will give us a full committee. This is a public hearing so is there anyone out here would like to speak to us? I have no cards. Does anyone here have any questions? Then I could entertain a motion to adopt the schedule.

MOTION

Commissioner Griffin: I so move.

Chair Cassel: Second?

SECOND

Commissioner Lippert: Second.

MOTION PASSED (7-0-0-0)

Chair Cassel: I'll take Lee's. Any discussion? All those in favor please say aye. (ayes) Thank you.

The next item on the agenda is also New Business and a public hearing. It is the Individual Review Program Annual Update. Would Staff wish to make a presentation?

2. **Individual Review Program Annual Update:** Review of the Single-Family Individual Review (IR) Program Annual Update.
   SR Weblink: http://www.cityofpaloalto.org/cityagenda/publish/planning-transportation-meetings/67.pdf

Ms. Amy French, Current Planning Manager: Good evening Chair and Commissioners. Attached to your brief report for this evening is a draft version of the upcoming annual IR update for the Council. That will come to them as an information item in March of this year.

It is a statistical year in review of application and outreach activity and changes that were pursued and/or occurred in the year 2004 within the IR program. In this update we noted that changes to the IR Ordinance and R-1 regulations discussed last year with the Commission are still pending Council review and adoption. The background attachment summarizes the Commission's efforts last year and touches on the guidelines update that is now in progress. The update reveals our timeline on that guidelines update.

Also attached to your report are photographs of sample IR projects built to date. To provide more context I brought with me tonight some photographs of the homes on either side of those. You will also notice at your places a chart that compares various aspects of the Individual Review program over the past three years since the establishment of the program. I would like to briefly summarize the trends we have seen as you focus on the statistics. For the audience we do have copies of this chart at the back.

The number of applications per year has increased since the first year. The number of new homes versus additions is roughly the same each year. There has been a decrease in the number of Director's Hearings for the 2004 applications. There has been a decrease in the number of Planners and consulting architects in the program. We use the same consulting architect, Origins Design and Network, but we have just one architect in their shop. There has been a decrease in the budget for full time staff, commensurate reduction in staff, and there has been an increase in the comment period from ten days to 21 days and that is to go along with the 21 days that we have for Variance and Use Permits. We are trying to be consistent. There is a faster start now for the noticing period to begin being that we have a longer noticing period. We are still doing that through posting and mailed notices. As you probably realize we have electronic notices of all applications received and that includes IR's on our website. The fees have increased steadily but still do not cover the cost of the program. And, 2004 was a very busy year for Staff with the removal of the one guideline on solar orientation and beginning the update on the guidelines and bringing all those R-1 code changes through the hearings. Outreach efforts have increased since

the first year and I think are more productive. We are getting some good input through the outreach meetings.

I will now show you the photographs. This is the home that was in the packet. It went through IR review and is now constructed. I will just show you the context on either side. This is the home on the one side and this is the home on the other.

Another example. One that we don't have for you is the befores, you aren't seeing the plans that come to us initially and then are modified through the process. That might be an interesting way of looking at the process as well. This is the home on one side and this is the home on the other.

Here is another house that is being built. This one has a lot of trees in the neighborhood so it is hard to see the home on the other side. It definitely goes with the Craftsman on the other side of it.

Here is another one. And the next home. Here is the house on the one side and a little snippet of the house on the other. You can see it is challenging to design a two-story home with one story on either side but it can be done successfully. Here is the subject home that had gone through the process and through the trees, hard to see, is the home on the one side.

Here is the last one. It is kind of Spanish. That was a new home. Then the home on the one side here is one story and a two story on the other.

So that gives you an idea. We will be happy to answer any questions that you may have. Again, this is an informational item that will be going to the Council next month and it will be going as an informational report.

Chair Cassel: Do we have any questions before I go to the public? This is listed as a public hearing. Do I have any cards from anyone who wants to speak? I have no cards then I will bring it back to the Commission. Do we have any comments we would like to make on this? I can see Pat nodding already. Go ahead.

Commissioner Burt: I have a few so I will take a couple and then let other Commissioners take a whack at it. The photos that we have in the packet are some pretty nice examples of successful IR projects. First, can you clarify the purpose of the photos? Are they to give best models for applicants to see what we would prefer that they do or are they intended to be typical examples or some other purpose? What purpose or purposes are the photographs?

Ms. French: First of all they can serve several purposes. The first of which was that last year you had requested that we do something along these lines to bring you some examples of built projects. The second is yes they can be useful and in fact we are considering putting some of those photographs with of course the permission of the owners in the new IR guidelines to show good examples of well-done projects. We had a pre-application meeting today where I used not one of these but one of the other ones we've taken because they were going along the lines of working on their floor plans of how it would look at the front. We were able to use that photo to say well here is something similar that they did to alleviate that massing problem. So I think having examples is a good thing and can be a very useful tool. Of course we are not saying what

style people should use and we don't want them to get that impression. We also want to have some contemporary photographs mixed in as soon as those houses are built.

Commissioner Burt: I can certainly see that these photos provide real good examples of what we would like people to try to do in their projects. I think there were a number of really well designed homes and I think that if all of the project were comparable we would all be happy campers. So it seems that we have a couple of different objectives. One is what you would want to provide applicants as best models perhaps or however you would like to characterize it. Then for the Commission's purpose of looking at the success of the program and are there any tweaks that would be appropriate it seems that it wouldn't necessarily be that set of our best success stories that would be in those. Certainly we have sensitivities to whether people want their photographs reviewed and things. What struck me is one way that we might be able to look at those borderline cases where if there are going to be adjustments to the program those are the examples where we would most likely be looking to say okay, these were the contentious cases, what made them contentious and is there anything in the process that we might want to learn from these contentious cases that would cause us to adjust it one way or another? Consequently it occurred to me that the applications that go to a Director's Hearing are by definition the ones that are contentious. They aren't necessarily ones that we would all agree have valid reasons for having been appealed but nevertheless they are a subset that probably would give us a good focus on the ones we might want to look at and say what was it about these that people had concerns on? We as a Commission may say we just simply don't agree with that appeal or we may say yes, we can see this one really had two sides to it and this is where we may want to delve into how we can continue each year to improve on that process. So that would be one thing I would be interested in is seeing that set of photographs in the future.

Then a second question is I saw that there was a staffing decrease both on support staff and how the budgeted full time equivalent in staffing occurred. I was interested in Staff's comments on how that affected the workload and the number of applications seems to have stayed fairly steady with a little bit of fluctuation from year to year. Is Staff being able to keep up? If there has not been a decline in the ability of Staff to keep up with that workload what do you attribute it to? Is it that we have simply gotten better and more efficient at a process as we have gotten to know it better? Is it that we excluded something like having to deal with the solar setbacks or other reasons? So I would be curious how the decrease in staffing has occurred, what impact it has had and if it hasn't had a detrimental impact what do you attribute the lack of detrimental impact to?

Ms. French: One thing I thought was interesting in your range of possibilities was the solar. I think that has had a dramatic impact. A lot of hours had been spent on trying to describe just what that guideline was about and what the limitations were. So that was a very welcome change for Staff. We do struggle with the amount of applications we have and the Staff that are dedicated to it. Lisa I think might want to say something about staffing in general or the budget.

Ms. Lisa Grote, Chief Planning Official: I do want to add something to that. We have as Amy mentioned become a little more efficient as we have gotten to know the program and the standards and the guidelines and that has been a positive. We did change the solar standard so that was also a reduction in some time that was required for the analysis. However, we have experienced some timeframe extensions in other areas of development review and it is not necessarily in the Individual Review program but in Architectural Review applications both at

Staff and Board level because the are the same group of Staff that review those applications as well as in our Building Permit review timeframes. So there has been an impact in lengthening of timeframes as a result of fewer Staff.

Chair Cassel: Thank you. Does someone else have a question?

Mr. Steve Emslie, Director of Planning: Madam Chair, I just wanted to add a comment or two about the cost recovery aspects of this. As you know in our last report we did a cost recovery analysis of whether the fees are sufficient to cover the Staff time after we had a couple of years. You know that that resulted in showing we are losing half of our expenses. The fees cover roughly 50% of our expenses. So I just wanted to mention that that there is General Fund support of the program.

Chair Cassel: I would like to go on and come back to you. Thank you. Someone down here want to say something, Karen?

Commissioner Holman: I wanted to confirm what Commissioner Burt had said about good examples and bad examples and I know that there is some difficulty in using bad examples from our community. I think you are on the right track with having photographs of the residences on either side because the purpose of the IR program was to address mass and scale as it related to the environment, its own environment. So I would suggest that the individual homes as you got photographed and attached to the packet is a very good start and that what you showed tonight. I had a couple of suggestions. One is that the shots be taken straight on because when they are taken at angles it really distorts the context and proportions to neighboring structures. The other is if there could be one shot that would show the context of the neighborhood. In other words, the house on either side with landscape photography I think it could be done pretty readily these days. I appreciate your bringing that up because I think it is a very important aspect of this given the purpose.

Chair Cassel: Lee.

Commissioner Lippert: I just want to follow up with regard to the photography. Whether you realize it or not pictures do lie. Yes, they do. What I am talking about specifically is that the photographer is not as objective as we would like to think of that person as being. What really needs to happen is that there needs to be some standards by which these photographs are taken for two reasons. Number one as a point of comparison of the existing conditions and the neighbors but also to be able to compare projects so that you are able to look at one house that is being proposed and another house and be able to compare them. That is how an evaluation can be made visually. I agree with Karen's comment with regard to taking it on an angle can distort the image but also distance has a lot to do with it as well as the aspect ratio and the type of lens that is used. My suggestion would be that I am sure the department or somewhere in here this is a digital camera and that some guidelines be established and that photographs be taken or the documentation begins when somebody goes out in the field to plant the sign for the project, that way you are not having somebody go out there twice, and that the second set of photographs be taken after the project has been finaled out and the planning representative is out there checking to make sure that the project complies with the plans.

Chair Cassel: Michael.

Commissioner Griffin: I would like to return back to the question of staffing and also cost recovery. Amy, you are now operating with just one full time employee plus a part-time consultant according to your draft here. You say are able to keep up with the demand however the timeframes are slipping so help me a little bit. Are you keeping up or not?

Ms. French: Well, the short answer is we don't meet our targets 100% of the time for building permits, for other permits as well. Again, we spread this out as well although there is one budgeted we do have five planners, full time employees, working part of their time doing these projects. So we are spreading it out among other Planners there is not just one person that might be deceptive there. It is quite challenging to keep up with the workload and it fluctuates because again these Planners are also doing projects that ebb and flow based on when they are complete and when things are hopping.

Commissioner Griffin: I guess what I am trying to get at here is is the public perception that this thing is dragging out longer than it was in years past or would an applicant be pleased with what is going on and the expediency with which you are able to work on these projects.

Ms. Grote: Again, I think some of that fluctuates depending on the project itself, depending on the number of comments received by other neighborhood residents sometimes the process can become longer, whether or not it goes to a Director's Hearing will add time to it. So I think the perception varies depending on the project itself. Again, the impact isn't always experienced in the IR program application timeframes. It can be experienced in other areas of the development review process. Sometimes it would be experienced in an Architectural Review application, which will be handled in the order in which it is received so the IR's may be handled first because they are submitted first and then an Architectural Review follows. Sometimes the Architectural Review timeline is affected because a Planner has other Individual Review applications that have to be dealt with first. So the impact isn't always in this particular program it can be felt division wide.

Commissioner Griffin: Okay, cost recovery, do we have any plans to increase the fees so that it is a revenue neutral or a cost neutral program?

Mr. Emslie: Yes, we are very much looking at potential fee increases as a part of the department's budget submittal.

Chair Cassel: Bonnie.

Vice Chair Packer: In order for the City Council and for us to evaluate the success of this program I imagine we should test it against whatever goals we may have had in the beginning for establishing this program. I wonder if it has been thought and I realize that staffing is a problem but we now have about 360 projects that were subject to this process. I wonder if it has been thought of doing a survey of the people who experienced the process how it was and maybe also of all the people who submitted comments on the project so that is another few hundred. I don't know who would design it just to get a feeling to test it against what the goals might have been. I am trying to remember what the goals were. One is to find a vehicle for people in Palo Alto to express their feelings about new construction going up in their neighborhoods. The other one was to preserve the character of our neighborhoods and those kinds of things as well as

addressing issues of privacy. These are difficult things to evaluate but maybe there is some good survey writer who could try and ask questions that could test this program against these goals so that it could be better understood in terms of its success and those survey results could be a good tool for City Council when they are looking at these cost issues especially in these difficult budget times.

Ms. Grote: Just briefly, we did actually invite people in kind of an informal survey but we did do that at the end of 2002 and into 2003 and people did answer those types of questions and come to our public meetings to discuss that very subject. What was expected, what was the experience during the project, how did that compare to what was expected and that kind of thing. So yes, we can continue to do that.

Chair Cassel: Annette.

Commissioner Bialson: Just quickly, have you been finding that design professionals who have gone through the process once come back well prepared the next time? Is that part of what has accelerated the process for some of these projects?

Ms. French: We do see quite a few repeat architects coming through the process and that does help. They get to know the guidelines and the programs. Architects all design differently. Some design from the inside out, some design with the appearance of the front more in mind so we have varying successes with that but it does help that people do get familiar with the guidelines.

Commissioner Bialson: Would you expect to be able to handle more applications with the same personnel dedicated to it because the community is becoming a little more aware of what is expected in this process? In other words, can you continue to handle this number of applications if not more with the same amount of personnel given the fact that people, including yourselves, have gone through the learning curve?

Ms. Grote: I think to handle the same number of applications we may experience again the same kind of impact, which might be in some instances lengthening of timeframes for review, and other areas of project review. Again, there are efficiencies of scale as people become more familiar both applicants and staff. There are efficiencies there and we will continue to look for those.

Chair Cassel: Pat, you had another question?

Commissioner Burt: It has been partly covered. I just want to make sure that we are unambiguous in the response. As I understood it the workload on the five staff members who share the responsibilities for the review process is such from the IR review that it is negatively impacting the ability of Staff to give timely response to other project reviews. Bluntly put is that accurate?

Ms. Grote: That is accurate.

Commissioner Burt: The Council has one of the rare circumstances where we are having a review go to Council on 1012 Forest I think it is and it got my interest because the *Daily News* in an article Sunday three times in the same article said that the Planning Commission had reviewed

and approved the project even though the Planning Commission doesn't review Individual Review projects. I left a message for the Daily reporter and haven't seen a correction yet so maybe this public comment serve as a correction there.

In any event, because that was one of the projects that are being appealed to Council it for me once again was that example okay here is a contentious one. What exists here that might shed light on whether the process should be refined one way or another. So I went by the site and what I found was that the posting at the site, and I had forgotten this, doesn't have a plot map and it only had a front view of the project. Basically by going to the site and looking at that posting I really had very little idea of what the proposed project would be and its relationship to other properties. So that was one thing that I thought would be potentially an improvement in the process is looking at what additional information should be posted there. It seems like it wouldn't be much of a problem to post the footprint of the proposed project on the parcel, perhaps the footprint in relation to adjacent parcels. Then the other question is should there be other angles besides the front view because the contentious issues when I read the Staff Report weren't really the front view at all they were these other views and going to the site really couldn't shed any light on that.

Ms. French: I would like to respond. We have actually discontinued the process of posting the front elevation. Again this is due to resource cutbacks. We are now posting the same kind of sign we post for Conditional Use Permits and Variances which basically has the Staff Planner name and number and says come into the Development Center to see the full set of plans and the storyboard that shows the neighborhood. So we have discontinued that process. That was probably an older sign.

Commissioner Burt: I guess so.

Chair Cassel: One other thing relating to this and that is I think you are coming back to us, this is an informational report for us and you are coming back to us in two months with some proposed changes.

Ms. French: The plan is to come back with the IR guideline changes and we think those will be very helpful to the process. The Council will be reviewing the ordinance changes that were discussed last year along with the R-1 changes.

Commissioner Burt: So that change of removing the front view I don't recall that as having been one that was part of the Commission review.

Ms. French: That just occurred at an administrative level it is prescribed in the ordinance. It is something we can just do and we did it because that is how we are doing the other ones as a result of the Audit changes. We are simply posting the basic information and saying come in, take a look at the plans and call the staff planner. The ultimate goal on showing plans is to have it on a website or that kind of electronic format. We are starting to receive applications with discs with visuals. So that is the ultimate goal that we will have those uploaded as a part of our electronic system so people can go online.

Commissioner Burt: I think that future online approach sounds great. In the interim I would be interested in having the Commission discuss a little more on whether we think less information

on the site board is a good thing as opposed to more information. There are a lot of folks who have daytime jobs outside the City and it is really a hardship to come back to town during the day for when the Center is open to be able to do that.

Chair Cassel: So why don't we continue that piece of the discussion? We are going to be back in two months. Is that all right?

Ms. French: Yes I just want to follow up on that. One of the reasons too is that we did increase the comment period to 21 days. So it gives them twice as long to come in. That is just another piece of it that we did and we are getting it out faster. We didn't want to have the delay of having to copy and paste and do some things to get it right on the site. We give it to the applicant right at the counter and they post it on the site that day.

Chair Cassel: Lee, you wanted to say something.

Commissioner Lippert: I wanted to make a comment with regard to fees. From what you have described this covers 50% of the cost of the review. There is a neighboring community that charges two-thirds to three-quarters of this price and they have had design review as long as I can remember and it is a Board review which makes it even more cumbersome but I think that there are some lessons to be learned from this neighboring community that maybe we want to have a liaison with that staff there and talk to them about it because they are charging significantly less. I am sure that they haven't raised their prices because they probably are covering their costs.

Mr. Emslie: Do you want to tell us what community that is?

Commissioner Lippert: Privately I will tell you what community. I don't think it is fair.

Mr. Emslie: We have checked with some of our other neighboring communities and other communities that have design review of single family homes and we are finding that the fees are substantially higher and some of them are direct cost recovery. So if a project gets more complex and more controversial and the longer staff spends on it it is a direct billing to the applicant.

Commissioner Lippert: There is one other comment with regard to cost here. Most architects that are submitting, I am talking architects or anybody who needs to use reproductive services, what they do is they take them to their blue printer and their blue printer has a large format scanner and they turn it into either a TIF or a PDF file. That file is actually either stored on a ZIP disc or a CD and then they go and they print as many sets of drawings or documents as your require plus the architect is going to require to get out to their contractor. So they have to pay those costs anyway. Just simply by requesting those files you will get the information that you need with regard to being able to post the stuff on the web.

Chair Cassel: Maybe you can talk to them more about those details later. Karen.

Commissioner Holman: Going along with the last two speakers I am in my mind having a hard time seeing how the reduced components on the posting is going to save money because in anticipating that neighbors are going to want to see what those plans look like there will be Staff

time that will be spent pulling the plan, going over the plans, reviewing the plans with those neighbors so I am questioning whether that would be a cost saving. Then the other thing was as Commissioner Lippert mentioned the architects are putting these on disc anyway.

Chair Cassel: Again, this is an informational meeting. It is coming back to us in two months. So maybe they can look for us and see about some of these other cost issues.

Commissioner Burt: Madam Chair, this isn't just an information meeting.

Chair Cassel: It is a public hearing.

Commissioner Burt: Under the recommendation to receive and review and if we don't give input tonight then they won't have had an opportunity to respond to our concerns when they come back in two months. So I think both the issue that I attempted to raise and that Commissioner Holman is raising is exactly what we should be doing tonight and I would appreciate that we follow the agenda which says receive and review which means to give the input.

Chair Cassel: Pat, I am not trying to keep us from giving some input of what we think but I am trying to keep us out of the tiny details about how they actually do it. We have another major item to do this evening and I am trying to keep us in the general comments rather than exactly how to do the PDF files.

Commissioner Holman: Well, I am not talking about how to do the PDF files what I am addressing is the posting which if the architect is already do these files to post it, could the architect just not provide a printout of that, the City could provide the materials and it seems like a done deal. I am just concerned that it is going to have a negative cost effect by eliminating this information on the postings. I am not trying to tell you how to do it I am just saying that is one way it could potentially be done and there is a negative impact.

Ms. French: I can respond to the cost aspect. The boards that we were using that would contain the drawings to a scale that people could read were like three or four dollars more expensive than the ones we use now that we use for the rest of our applications. So there is somewhat of a cost savings. Again, it was also to get it out quickly and to get it done but I can appreciate your comments.

Chair Cassel: Are there any other comments on the program? The comment I wanted to make was I thank you for putting together this draft with all the numbers of one-year comparisons. I think that is helpful in our understanding and it is helpful for people to look at it easily and I really appreciate your doing that. What I thought was impressive was that we have each of the last two years only one appeal that went to City Council. That is less than one percent, which to me indicates that something is going very right in the program. It doesn't mean we shouldn't be looking at the issues that you are talking about Pat and that other people have talked about in terms of efficiencies and costs and those things and where the problems might be in a particular problem that is going on. Are we hitting something that we should be hitting for all of them? We should be looking at those problems. But on the other hand only one of them went to the City Council and six went for Director's Review, the first year 14 in 2003 and back to six this year. That indicates that whatever the problem was last year you are beginning to resolve some

of those issues. I think that was very helpful. Thank you very much and thank you for putting this together for us.

We can go on to the next item, right? Okay, thank you.

This is the third item on our agenda and it is a Zoning Ordinance Update discussion. It is a review of the draft of the Multi-Family Residential, RM-15 and RM-30 and RM-40 districts, Chapter of the Zoning Ordinance Update including revisions to allowable uses and required development standards. This is our first review of this. The Staff has some major issues they would like us to look at and discuss in general. This will be coming back to us and they are going to have some reviews with the public after this and before they come to us with a more finalized draft. Would Staff like to give a report?

3. **Zoning Ordinance Update:** Review of draft Multi-Family Residential (RM-15, RM-30, and RM-40 districts) Chapter of the Zoning Ordinance Update, including revisions to allowable uses and required development standards.

SR Weblink: http://www.cityofpaloalto.org/cityagenda/publish/planning-transportation-meetings/68.pdf

Mr. John Lusardi, ZOU/Special Projects Manager: Thank you Madam Chair and members of the Commission. Staff is very pleased to be bringing to you this evening the first draft of the Multi-Family Residential Districts. The Commission review that we are asking for tonight is to give us comments and direction on key policy issues with respect to the chapter that is outlined, described, in your report and contained in your report. We understand that there are a lot of text involved in this and probably edits that you would like to make recommendations and suggestions on with respect to revisions and editing. What we would suggest tonight is that you give those suggested edits and revisions offline we will put them together and when we come back to you we will have a list of all those changes and recommendations of changes that we put into the chapter. Again, tonight we would like to accept any public testimony that is here with respect to this particular chapter.

Subsequent to tonight's meeting and direction by the Commission in comments we will be holding some community meetings with respect to this particular chapter. We have already scheduled one community meeting on March 9 in the Midtown area to discuss multi-family zoning with respect to that area. Subsequent to that we have an ARB review scheduled for March 17 where we will be talking to them about such issues as setbacks, daylight planes and performance criteria which is described in your Staff Report tonight. Then we will be coming back to the Planning and Transportation Commission with a draft ordinance.

So what we would like to do is really try and get through the entire ordinance tonight as far as the key issues that we have outlined and described in the Staff Report so we can continue on the community outreach process and continue discussions with the ARB and other members of the community.

I want to emphasize a couple of things tonight. Really the impetus for this chapter is to implement the Comprehensive Plan and Housing Element policies. There are some key policies in the Comprehensive Plan and the Housing Element that we feel are critical in implementing and revising this chapter with. The second part is a real emphasis and this is simply to repair and

update the chapter on the multi-family, the RM-15, 30 and 40 multi-family land uses. We have been working with Current Planning in that regard with respect to how they have dealt with this on a day-to-day basis and how they communicate these development standards in these chapters to applicants in the community. Thirdly the ZOU urban design consultants have been critical in some of the elements that we are describing in the chapter today most notably some of the development standards and open space requirements.

We have also been working with several local architects who have worked in the RM-15, 30 and 40 on a regular basis with respect to the constraints and opportunities that these chapters would provide. We have outlined in the Staff Report and described in the Staff Report approximately nine issues that we would like to go over with the Commission tonight. There are approximately 874 multi-family parcels in the City that are zoned RM-15, 30 and 40. The Staff Report summarizes and makes recommendations in the nine areas listed in this slide and what we would like to receive is comment and direction from the Commission with respect to those proposed revisions.

As I indicated the two critical things that I think we are trying to do tonight with respect to the chapter is number one implement the Comprehensive Plan and the Housing Element specifically policies in the new chapter and secondly deal with an issue we have described in the Staff Report that we think is a key issue and is how do we deal with substandard lots in the RM-15, 30 and 40 zoning districts. There is a preponderance of substandard lots and how do we deal with that in the context of promoting more housing opportunities without doing major, major revisions to the chapter itself with respect to the standards.

What we would like to do tonight is go through each of the items individually. What we would recommend is that the Commission take any public testimony at this time and then with each item individually we will make a short presentation and then ask for Commission's discussion, questions and direction for those items. So with that we would recommend that public testimony be next.

Chair Cassel: I would like to go to public testimony as soon as I can and then do a lot of the questions on segment by segment as we go through. Karen?

Commissioner Holman: I just had a clarification. So the public is not going to have benefit of the presentation before they make comments?

Mr. Lusardi: The summary in the presentation is almost exactly what is in the Staff Report. So if the public has copies of the Staff Report and the issue is in there they will have the information that we will be presenting within each individual item. It is the Commission's discretion when you want to take public testimony. What we were trying to do is segment the items so we could get concentrated discussion on each individual item with respect to Commission.

Chair Cassel: There are Staff Reports at the back of the hall for anyone who wishes them.

Mr. Lusardi: There are both Staff Reports and copies of the PowerPoint presentation that we are making tonight.

Chair Cassel: Is there anyone who would like to speak? Do I have anyone here? Go ahead, I don't have any other cards. Go ahead, Joy.

Ms. Joy Ogawa, Yale Street, Palo Alto: Thank you. I have the Staff Report but I can't read it in five seconds and so my comments are not going to be based on anything in the Staff Report because I can't read that quickly and digest the information. It really would be nice if Staff would present first so that I can make substantive comments. So this is almost kind of ridiculous basically to have me speak at this point.

I do want to say that I am very concerned about parking issues. There has been talk in a community meeting and there has been talk about liberalizing the parking standard and making exceptions built in. I think it is very dangerous to go there without making sure that it is not going to have negative impacts. I think the assumptions on a lot of things about concepts of shared parking I think that these things need to be very carefully considered and frankly should not be built into the code as yes, you can automatically get this kind of like exception or you can automatically get this kind of shared parking situation. If those things are going to be looked at they have to be looked at individually in the context of where it is going to be, what the parking situation is in that area and I am not the only one who feels this way about parking. So I think that this will not be a very popular issue when it gets to the point of the public looking at these code changes. I have to talk in generalities because I haven't read the Staff Report. Thank you.

Chair Cassel: Thank you, Joy, appreciate that. Okay, you have this put up here in nine segments and we have it in our Staff Reports following along fairly well the way you have. Are you going to discuss format first?

Mr. Lusardi: Yes, thank you very much. Let me just clarify for the speakers benefit there are no provisions in this chapter right now addressing parking. That is in a separate parking chapter, which the Commission will review in the future. Also with respect to shared parking that is a mixed use issue and what we are dealing with tonight is strictly a multi-family residential parking aspect of it. So just wanted to make that clarification.

The first item that we would like to point out to the Commission is that the chapter contains a new formatting. It is similar to the formatting you have seen in previous chapters, Industrial Manufacturing and R-1. The point there is to try and create a user-friendly format that is using tables with respect to uses and development standards and deleting extraneous information such as metric standards. It also combines the three, RM-15, 30 and 40 into one chapter to try and consolidate the zoning ordinance in that respect. It will include a context based design section that will be added. The Commission has seen a sample format of this at a previous meeting and it is attached to the Staff Report tonight just to give you a context with respect to how that would look. We are not asking for specific comments on the context based design form code this evening. This is really intended to implement program G-17 of the Comprehensive Plan, which is included in your Staff Report.

Chair Cassel: Okay, are there any questions from the Commissioners on this format? No questions? That means we generally agree with this and we can go on to the next item that this format is something we have used before and I will take those nods as a consensus we should proceed to that.

Commissioner Lippert: We have comment, I have commented on this in committee.

Chair Cassel: That's fine. I am glad. Let's go to item number two.

Mr. Curtis Williams, Consultant: Thank you. What I would like to talk for a minute about is substandard lots, the issue that John brought up. Substandard is a word we have used before with the low density residential and single family districts and it is not quite the same here in that we don't have an existing substandard section in the RM zones. However, there are a lot of parcels that are less than the minimum parcel size and less than the minimum parcel width in the code. This table indicates, as John said, 874 total RM zoned parcels that 63% of those at least are less than one of those criteria. So we have sort of developed the nomenclature of the substandard lots to characterize those. We have found that they have been particularly problematic in terms of trying to achieve any kind of density on those lots particularly because of the lot widths being so narrow. This is a sort of a work in progress, these numbers are preliminary we were pulling them together today and we are going to refine them somewhat but we think they are probably minimum numbers and if anything it is going to be a little higher than that. We also have some maps on the wall. One of them just shows the RM zones. The one on the right has some red circles and ovals on it and that is trying to point out some of the areas where we have concentrations of these kinds of lots particularly along Alma and some of the areas just north and east of Downtown. Then there is a little tiny part out towards East Bayshore I don't know if that is off of Embarcadero or not or maybe Oregon Expressway. In any event they are scattered throughout but there are some concentrations. So we have tried to address substandard lots not as a separate category because they are so predominant we really felt like it was necessary to address code provisions that dealt with all lots and that that would effectively assist with looking at the substandard size lots.

Again, we have defined that for this purpose as less than 8,500 square feet, which is the minimum lot size, less than 70 feet of width, which is the minimum, parcel width. We have done a few things that turn on the basic standards in the RM zone to try to make these lots have more potential for having multi-family units instead of typically today you see single family or maybe duplex on them. First we have suggested revisions to the setback and daylight planes particularly when the parcels are adjacent to nonresidential or multi-family and we will have a discussion a little later on about specifically what those are and some of the diagrams that you have in front of you when we get to the issue of setbacks and daylight planes. Maximum density right now there is sort of an artificial limitation on density in the RM zones that says that you can only have one unit if you have less than 6,000 square feet and then only two units up to 8,500 square feet and then only when you get above 8,500 can you have more than two. What that does is it takes particularly like on RM-30 lots or on RM-40 lots and restricts them to single family homes or maybe duplexes when they maybe could have three or four units on them assuming that they could meet parking requirements and some of the other constraints. So we have suggested deleting that restriction and allowing the density to be determined based on the units per acre whether it is 15 or 30 or 40 applied to the square footage of the parcel. Also we have suggested that a minimum of two units be allowed on lots of 5,000 square feet or greater. That is currently the criteria for RMD and we don't see why that shouldn't be also the criteria for the RM zones as well so that you didn't have to wait until you have at least a 6,000 square foot lot to have two units.

The code currently allows that if you have a single-family residence you can use R-1 standards to build two, which have some more flexibility than the RM standards. In discussing this with some architects R-2 duplex type development on some of these lots it seemed that that also would be beneficial to be able to use R-2 standards and have that flexibility when only a duplex could be built on a site. So we have suggested adding that flexibility to the ordinance.

Finally, we do anticipate that the RM-15 type of Village Residential use and the criteria for that could be applicable on these substandard size lots. We have looked at some of them and it does provide for potential ownership housing, potentially having maybe three lots instead of two, three units instead of two on some of these parcels and we will be back to you in the future with more specifics about how that's coming and the criteria that go along with that.

Those are our suggested approach to dealing with the substandard lots. Again, we are not creating a separate section of the ordinance. Since they are so predominant we felt that these criteria changes were effective for virtually any size lot but a lot of them do tend to really help the substandard lots have the potential for truly being multi-family lots instead of being single family or duplex. Again, we have looked at some Comp Plan programs particularly ones related to trying to modify zoning ordinance standards to allow for some higher density development. I will be glad to answer any questions.

Chair Cassel: Thank you Curtis. Lee has a question.

Commissioner Lippert: It looks like the preponderance of the substandard lots are sort of bunched or grouped together. Having driven by some of those sites they are of the same era or vintage when they were built. In fact they might well have been built by the same developer. Even though they are individually owned why not look at encouraging redevelopment and look at several parcels being jointly redeveloped but still maintaining their property lines similar to what you have proposed for the Village Residential in terms of looking slicing up a big parcel and having individual homes there and some assumed property lines. In this case it would be within the RM-15 allowing two or three or four parcels to get together and redevelop that whole grouping with separate property owners but developed as a group of buildings on those individual parcels within RM-15 zoning so that all of the guidelines are internal to those properties.

Mr. Williams: I think we anticipate that's a potential. The Village Residential will provide some of that flexibility because it can be used if you want to combine some parcels to do that. That would be fine. I think we would have some issues about needing to merge the lots if you were going to cross property lines and that kind of thing. So as you mentioned having individual property owners retain their property may result in shifting those lines around somewhat so if they have a house it might be a different configuration than it is now. I think that has the flexibility to do that already. We talked about the most effective way to get more units of these things is if they are combined together and you have a somewhat larger property to deal with. You have more room for parking, you have more flexibility to encourage things, and you don't have these setbacks on setbacks and daylight planes on daylight planes to deal with. But we can't force that to happen. We did talk about we could do some things here like reducing setbacks on the sides and some other things but we did feel like there was some justification in continuing to make it a little bit difficult for these lots so that there would be some incentive for people to combine the lots and develop a more contiguous cohesive development.

Chair Cassel: You have a second question before we go on?

Commissioner Lippert: It is sort of a follow up. I am thinking out loud here with what I am about to say. Both Michael Griffin and myself attended a lecture several weeks ago, in fact some Staff people attended as well, in which it talked about where the money is in residential development and rental housing is almost nonexistent. Even though it is something that is needed in this community the substandard lots may not be able to support the rental properties. Even with the combination it won't be able to support it. So what I am basically saying is if the lots are small enough you can develop some smaller apartment units that might be able to have an owner in one unit and then the second unit is rented out but it would be developed as a couple of parcels all that related to each other. So that is really where I am sort of going with this.

Chair Cassel: What you are trying to suggest is that because they are doing them together you might not have to worry about some of the daylight plane issues between them and that kind of thing.

Commissioner Lippert: Exactly. I am thinking of where I grew up in Philadelphia we had a thing called a semi-detached house. It had a property line that ran right down the middle of the house and they were two separate houses but they were squashed up against each other.

Mr. Lusardi: Actually, that is some thing we are really considering. We think the Village Residential is going to be a solution to that. What we are also hearing when we talk to the development community is that there are truly property owners who are living on a large lot or living in a single family house who want to stay in Palo Alto but they want to redevelop their site and they want to get more units on it just for their income and such as that. So we are looking at opportunities through the Village Residential to have perhaps one larger single family unit that a property owner could live in and a couple of other units. So that is an opportunity we are looking at through the Village Residential and we appreciate that and I think we are going to come back with some exciting proposals there. The second thing was when we talked to the development community it is not necessarily something we are tying to accommodate but what we are hearing is when you combine a couple of substandard lots to generate more development or more units sometimes you trigger a guest parking requirement, sometimes you trigger a BMR requirement and that tends to scare away a developer from combining a couple of lots. So that is another issue that we are trying to deal with through the development community on how we can affect more multi-family units without creating that kind of encumbrance or that kind of disincentive for developers by combining substandard lots.

Chair Cassel: Are there other questions?

Commissioner Holman: The substandard lot section probably poses more difficulties for me than any other section for several reasons most especially for the RM-15. I have a question for Staff. The RMD, does any RMD exist in town that does not have an NP overlay?

Mr. Williams: No.

Commissioner Holman: Well, I would suggest that the purpose of the RMD that is mentioned in the Staff Report doesn't have the NP. Lisa, do you want to say something? I guess not. That the

purpose of that was to encourage historic preservation and so that is why the extra unit. So it isn't just RMD for more units, to get more units on a 5,000 square foot lots for instance. The Comp Plan has other policies in it that aren't mentioned here and nothing is all one way or all another but there are also issues of and policies and programs for neighborhood character and historic preservation. I see again most especially in some concentrated areas like Downtown North where the redevelopment of RM-15 properties is pretty ripe and an issue that Commissioner Lippert brought up about rental housing, some of these smaller lots are rental units and the most inexpensive rental housing that we have or housing at all that we have is what is on the ground now. So if some of those properties are redeveloped are they going to be redeveloped as rental? We don't know for one and for two are they going to be as affordable as they are now? I would suggest that potentially they are not and most especially if there are lot mergers. So a question that goes along with that is let's say for instance and I am looking at both the Staff Report previously and these handouts that were given to us now in regards to daylight plane, if there is an RM-15 parcel that is redeveloped and neighboring parcels are also zoned RM-15 does that mean that there is no daylight plane that applies because of the zoning surrounding it?

Mr. Williams: That is the way the language is proposed right now. It is based on the zoning as opposed to the use.

Chair Cassel: And that is going to be discussed a little more later on in detail.

Mr. Williams: Right and that is the setback and daylight plane section we should talk about.

Commissioner Holman: Okay. Well I will stop there but talk about contentious I think this is going to raise an uproar in the community I would anticipate. I could be wrong but I think it is going to raise an uproar and I personally have very great concerns about what the impacts of this are and how it satisfies only some portions of Comp Plan policy.

Chair Cassel: Michael and then Pat.

Commissioner Griffin: Curtis, review again please if you would what is the genesis of this definition of 8,500 square feet and the less than 70 feet worth of frontage.

Mr. Williams: They are basically the existing minimums that are required for the district. So if you are less than that you are a nonconforming lot. What we have seen is that it is very difficult to get more than often times a single family home or at best a duplex on these lots under current regulations.

Commissioner Griffin: So the 8,500 square feet is a preexisting number that we have had for some number of years.

Mr. Williams: For some years I don't know how long but probably from the 1970's.

Commissioner Griffin: And, 63% of the RM district lots are nonconforming based on that definition?

Mr. Williams: Yes.

Chair Cassel: Pat.

Commissioner Burt: I wanted to try and make sure I understood the basis for Commissioner Holman's questions. Karen, is part of your concern that if we liberalize some of the standards to redevelop some of these lots we may inadvertently result in a replacement of rental units with new for sale units and a net loss in rental housing in the community?

Commissioner Holman: I believe that is potentially possible, yes that is one of my concerns.

Commissioner Burt: So those issues that Commissioner Holman raised caused me to stop from thinking this is overwhelmingly a good thing that we are doing and are there unintended consequences, which may result from it, that we need to consider more deeply and how do we balance those different objectives. So I would like to know if Staff has thoughts on that subject. Are we in trying to create some incentives that have some desired outcomes potentially walking into some undesired outcomes?

Mr. Lusardi: There is a housing policy that prohibits development from removing rental units and replacing them with market rate units. There are some very strict standards there and one of those standards is you have to replace it I think with 100% additional units. So there are some very strict standards in removing rental units and replacing them with market rate units, which we think affords the protection that the Commission is concerned about.

Chair Cassel: You don't mean market rate units you mean with homeownership units.

Mr. Lusardi: For sale units as opposed to rental units.

Commissioner Burt: Great, thank you.

Mr. Williams: Madam Chair, if I could add a couple of things. One is a little caution to what John said, if that rental unit is a house right now I don't think that is going to come into play. So I think it would have to be a minimum of a duplex or two units on the lot. The second thing is as far as other unintended consequences when we get to the section to talk about setbacks and daylight planes I think we know that that is an issue. Whether you are next to an existing home or a lot zoned R-1 is a distinction. You may be a home on an RM-15 lot in which case what we have suggested is less stringent daylight plane and possibly setback requirements. You may want to visit that in terms of are there other ways to go about it. You could treat that a little differently. I think we need to also hear from the community as to whether these people who live in these zones in say a home in an RM-15 are concerned more about that or with the potential of developing their property too.

Commissioner Burt: So if we have a circumstance where we have a single family home in a higher density zoning what we might have is a tradeoff between the loss of what might be a single family rental unit and replaced by more than one unit that would more likely be for sale units but an increase in the housing stock in exchange in a decrease in a rental home. Is that the anticipated tradeoff in that circumstance?

Mr. Williams: That is certainly possible, yes.

Chair Cassel: Bonnie.

Vice Chair Packer: A couple of things. You mentioned the different groups that you have been in discussion with and now you also mentioned that you have also talked with the development community. So I think something that might enhance our understanding of this process going forward, rental versus market rate, is what economic conditions give the developers more incentive to create rental units and what set of economic conditions give them incentives to make for sale units. The zoning ordinance is going to go for another 20 years and so I am not talking about what is true today because maybe that is just a little piece of information that would help us.

The other thing that I am a little bit concerned about is the minimum density. If you have minimum densities does that encourage smaller units? If we have this refill happening on these sites if some of these older apartment buildings get torn down and we create incentives to build new modern buildings for housing whether it be rental or for sale what are the ways that we can keep these units on the more moderate size so that we can ensure that they are more accessible in their affordability? Is it the minimum density that does that? How can that be addressed?

Mr. Williams: Currently in what you have before you the minimum density is probably the main thing that would create or assure that a certain number of units is created which would reduce overall given the FAR the size of them. However on these substandard size lots we have specifically indicated that we would exempt them from the minimum density requirements because in many cases they are constrained a duplex may be all you can get even though the density application may say three or four units on that particular parcel. So I think it is hard to particularly in the RM-30 and 40, RM-15 I think works out fine but RM-30 and 40 there are many cases we could see where you couldn't. So we didn't feel like that was a good hard and fast rule for these size lots to apply the minimum density. Elsewhere and we will be talking about minimum density in a minute, elsewhere I think that is certainly true that having a minimum density requirement helps to reduce the size of the units.

Vice Chair Packer: So what I was trying to visualize is what would happen on a 10,000 square foot lot, what would happen on a 5,000 square foot lot if you applied all these parameters what are the numbers of units that could reasonably be built just so we had a feel for some of these things. What would be the consequences of some of these development standards that are being proposed for the kinds of lot sizes that exist right now? Then compare and contrast that with the Village Residential, which we haven't seen as a Commission yet. Which of those, Village Residential versus straight RM-15, would provide the most incentives for developers to do some really interesting projects. So that would be something we would like to see Staff's input on, which of these proposals gives the greatest incentives and why.

Mr. Williams: We are in the process of doing some of those calculations and looking at some prototypes for some of these different size lots.

Chair Cassel: I have a question. When we did the residential lots and we talked about substandard residential lots we gave two of three numbers. There was square footage, a depth and a width and any two those would give you a substandard lot. Why did you choose just either or of the two dimensions and no depth?

Mr. Williams: A couple of reasons, I am trying to think on the residential did we have depth in there? I was thinking that we didn't have depth.

Chair Cassel: It was if it was less than 80 feet or something or a certain width or a certain square footage.

Mr. Williams: We didn't do depth here primarily because the preponderance of lots are narrow and long. It is pretty unusual I think to see these lots and you have been looking at them recently but tell me if you have seen otherwise but 50 by 200 foot lots, 50 by 150, 50 by 100 are very common typical sizes of parcels that we see.

Chair Cassel: Thank you. Annette, do you have anything?

Commissioner Bialson: No.

Chair Cassel: Go ahead, Karen.

Commissioner Holman: I have a question about what consideration was given to the zoning map when considering these changes to the zoning standards, the development standards. The reason I ask that is because Downtown North, I am looking there because there is so much of that that is RM-15 for instance. I am not only concerned about RM-15 but that is where I have a lot of concern. So when the zoning was developed and I don't know all the history of this but when the zoning for RM-15 was developed and the development standards for that there may have been a reason and a purpose for putting it there, which would be very contrary to what is being proposed. I am just asking if Staff looked at that. So in other words the impact of this kind of development standard could be considerable on that neighborhood. Is Staff considering that before applying any development standards that you would look at whether all the property that is zoned RM-15 is appropriately zoned? I know that isn't what we have done in the past you said we would go back and look at the map later but I am wondering if that was a consideration of Staff given what the neighborhoods are and what the context of the neighborhoods is.

Mr. Williams: No I don't think it was. I think it was primarily looking at RM-15 sort of as it is today and the fact that if it is zoned that there seems to be some intent to try to achieve something close to that density and we can't now and how do we try to address that at least partway but we didn't go back. With this map here I think we can probably do a little more focused analysis of where some of those areas are but it is just more of a qualitative thing at this point in time as far as whether that would create problems in certain areas and it is not a good overall policy or if it works everywhere. We didn't focus in on area by area.

Commissioner Holman: Second question. When you met with the, the Staff Report says there were meetings with the development community and architects, was there a list compiled of their comments and what they had concerns about or what their constraints were?

Mr. Lusardi: No we don't have a list but we can certainly put that together out of the meetings we've had. We have notes from those meetings and we can bring those back to the Commission with the draft chapter when we come back. Again, just let me point out that we want to continue

a dialogue with developers and architects to refine some of these very issues that the Commission is asking about as well.

Chair Cassel: Lee.

Commissioner Lippert: I just want to raise one final sort of follow up comment on my earlier suggestions. When you can look at development of adjacent parcels there are things that you might want to also look at which are putting additional encumbrances in the way of shared easements, in other words a shared driveway for those parcels will help those sites feel a little less encumbered. Then also shared open space maybe between adjacent properties as well might also help. That can just simply be handled maybe through an easement process. So that is just something to think about.

Chair Cassel: Do I have any other comments or questions at this time? So what is in front of us has been substandard lots. This is an extensive piece here or a page and a half of discussion on it. They are talking about actually making a definition and recognizing it in a more formal way of what a substandard lot is and using two dimensions one or the other and I am hearing no complaints about using that as a definition or at least as a starting point to develop a definition. They are talking about perhaps discussing this more but in the substandard lots talking about setback and daylight plane provisions to be relaxed for sites that are bought and we have some minor concern but no major concern. You have major concern but as a Commission we a person who has major concerns with that. I want to make sure that you are heard. Maximum density restrictions you are going to do some more exploring on that and we are agreeing that you should do some more exploring on that and proceed with that. A minimum of two units would be allowed on any lot of 5,000 square feet Karen I think you still have some objection to that.

Commissioner Holman: I do.

Chair Cassel: And others of us are willing to go ahead and proceed and learn more about that. Any lot developed with two units would be allowed to use the R-2 development standards which are more compatible with low density residential concerns and Karen's concern here if I am stating this right is that where we have those RMD zones they have been for the purpose of neighborhood preservation and are we creating something different. Is that right?

Commissioner Holman: Correct.

Chair Cassel: And the rest of us are interested in proceeding with learning more about this option. Do you have something else?

Commissioner Burt: I am just concerned about the way you are characterizing that if Commissioner Holman raised an issue that either she is not interested in learning more or that the fact that we are interested in learning more means that we are necessarily consenting. I don't think either of those things are accurate.

Chair Cassel: I am trying to come out somewhere in between. She has some very strong concerns about those issues and I want to make sure that that is expressed.

Commissioner Burt: I just don't want it implied that

Chair Cassel: That she is not interested in going on.

Commissioner Burt: Nor that others of us are necessarily at this time agreeing to an outcome.

Chair Cassel: Right because that is going to come back to us later.

Commissioner Holman: Clarification along those lines. I just want to make sure that because if I am the only one raising some of the concerns does that mean that Staff will or will not explore or address the concerns.

Chair Cassel: I would presume that that would be brought into the discussion. It is always good to have different ideas brought forward so that we don't miss something. Is that correct?

Mr. Lusardi: That is correct. We would raise the concerns that Commissioner Holman has brought to us when we continue our dialogue with developers and architects and we will certainly bring those issues out when we meet with the community as well and make sure that we are clear that these are issues that we need to address.

Commissioner Holman: Thank you.

Chair Cassel: Then so far the comment that we have down here under Village Residential housing is that they are telling us that they are doing some work on this to see if this will fit into the RM-15 zoning and working on that. Okay? Then we are ready to go on to the next item single family and two family uses.

Mr. Williams: We will go back to those diagrams later. This issue just deals with the single family and two family uses, which are currently allowed in all of the multi-family districts. The proposed language indicates that single-family use would be allowed in the RM-15 zone only and that duplex use, two family use, would be allowed in the RM-15 and RM-30 zones only and they would only be on the substandard size lots. The reason for that is that we have in doing the calculations and especially this goes back a little bit to the discussion we just had but if you have over a 5,000 square foot lot you have two units you should be able to do two units and the density works out under RM-30 and RM-40 under RM-15 it is a little more iffy so single family there and two family in the RM-15 and RM-30. So we are encouraging people where possible to do multi-family at least duplex units. Then again as we mentioned R-1 standards may be used where single family is allowed and proposed and that the R-2 development standards could be used where two family uses are proposed again allowing some more flexibility on those lots for those uses.

Chair Cassel: Bonnie.

Vice Chair Packer: I want to see if I understand that. I am a little confused. If in an RM-15 or in any zone if a lot is under 5,000 square feet a single family use would be permitted. Is that correct because you wouldn't have the minimum density?

Mr. Williams: That's right we probably should make it clear if it is under 5,000 square feet anywhere then that would be.

Vice Chair Packer: You could have a single family.

Mr. Williams: So we should probably just say at 5,000 to 8,5000 these apply but if it is under 5,000 it could be anywhere. I don't know how many are under 5,000. Claire do you recall?

Vice Chair Packer: Over 5,000 square feet the minimum density for each of the zones is two units. Is that correct?

Mr. Williams: Yes it is.

Vice Chair Packer: Okay, that's good otherwise you would be encouraging large homes on these lots and we are trying to avoid having a large home on a lot between 5,000 and 8,500 and that is why there is a minimum density there. Okay, now I understand. Thank you.

Mr. Williams: Well it isn't a required minimum it is allowed to have a minimum of two but then it is required here for that for instance in RM-40 if it was over 5,000 square you would have to do two. On RM-30 if you were in between that range two units would be a possibility that you could have a duplex on a 6,000 square foot lot for instance.

Vice Chair Packer: So you are saying that there is not a minimum requirement of two units under RM-15?

Mr. Williams: That is something we can consider but the minimum is an allowance where right now you may only under our current calculation formula you may only be able to have one unit. We are saying you could have two but it doesn't require that you have two except under again RM-40 is going to.

Chair Cassel: We are not talking about substandard lot sizes we are talking about standard size lots, right?

Mr. Williams: Standard size lots you would be bound by the minimum density provisions yes then you would be in some cases required to have more than two.

Chair Cassel: I thought I understood this better and then all of a sudden I am confused so it may be a language issue here. Allow single family uses in the RM zone only. So that if you had a lot that is now a standard size lot, it is 10,000 square feet.

Mr. Williams: No, the third bullet applies too, only on substandard size lots would the single family be allowed.

Chair Cassel: Okay. Then R-1 standards may be used for the single family so you would slide back use the R-1 standards and not the multiple family standards so that you aren't eliminating daylight plane and all those things for that unit. If they were going to build a single family they would be using standard R-1 regulations and guidelines.

Mr. Williams: Yes, that is correct.

Chair Cassel: Then the R-2 standards would be used for the two family uses.

Mr. Williams: Right.

Chair Cassel: Okay. Go ahead.

Vice Chair Packer: What I would like to suggest is that perhaps we make it a requirement that the lot sizes between 5,000 and 8,500 square feet that there be a minimum density of two units per acre because if in the past these areas were zoned as RM-15 it was understood that they were going to be higher density. If you have about 50% or more of these lots that are under 8,500 square feet you have a potential of turning all those lots into single family residences which would seem to be counter to the intent of applying the RM-15 to that zone. So I would just throw that out to the Commissioners. What do you think of say instead of an allowance of two units on substandard lots between 5,000 square feet and 8,500 square feet that there be a minimum of two units. Maybe we should explore that.

Chair Cassel: Michael.

Commissioner Griffin: I am not sure I would support that. I am comfortable with the way we have it now. I am not so sure that we want to insist that on these RM-15 lots that it would be necessarily worthwhile to require it. That is just a gut feeling I have, Bonnie.

Chair Cassel: Pat.

Commissioner Burt: Well, an interested in exploring Bonnie's suggestion. I am concerned that given that in many if not most circumstances the highest rate of return has been for some time on single-family homes. So that we risk undermining the very zoning that we have created and the intention of that zoning if we allow all of these 5,000 to 8,500 square foot lots to potentially be converted to single-family homes. So I think that is well worth considering.

Chair Cassel: Lee.

Commissioner Lippert: I have a slightly different take on this. I am actually aware of a very, very deep RM-15 parcel that has frontage onto a major road but it is so deep that it abuts an adjoining R-1 neighborhood. As a result of that you have basically have the ability to have two entrances to the site. The whole site has multi-family housing on it and then as usual parking is way in the back and they have garages. Then back behind the garages there is a substantial lot that happens to front on a R-1 street. What happens with that little piece of land there? Right now it is fallow, it is growing weeds, it is being used as a place where debris collects and yet it fronts onto an R-1 neighborhood. It doesn't have the depth to be developed as an R-1 property. So do you break that piece of land off and develop it as more RM-15 housing if that site can support it facing an R-1 neighborhood or do you break off that piece of property and develop it as a single family house but it is still on an RM-15 lot? This is a real live example here.

Chair Cassel: Pat.

Commissioner Burt: Lee, in that example the size of the parcel that is on the R-1 street face is that part of this much larger parcel?

Commissioner Lippert: It is part of that larger parcel. The parcel goes literally from street to street.

Commissioner Burt: Okay, so then to what extent would if it is a large parcel and it would be four units and it would fall under site and design review would that prospectively address Lee's concern that an incompatible development might occur on that R-1 street or is there some better way to address that kind of issue?

Mr. Williams: I think the site and design or even just ARB review if it is three units that it could address how you lay the property out so that you have more of single family feel on the R-1 street. If you are looking for a true R-1 product over there and if it is just this little narrow lot and everything else on either side is R-1 it probably should be rezoned to R-1 and then the rest of the site should be multi-family up on the multi-family street. We would have to look at the specifics of that.

Chair Cassel: The other issue is we haven't done the daylight plane and the setbacks yet and it would be in an R-1 area and it would be required to meet those because it would have housing.

Mr. Williams: Right I think it could be compatible and also John was mentioning again the Village Residential Cottage Cluster approach might be ideal for that to create this single family type of house up on the R-1 frontage and then something a little more intense on the multi-family street.

Chair Cassel: Karen.

Commissioner Holman: I think before this goes to the community and before it comes back to the Commission I think there is still some confusion about the minimum number of units. At least I am and I think there might be some other confusion still because on the proposed revisions it has this minimum two units. It is along the lines of Commissioner Packer's questions so I think there is some clarification that is needed.

On the proposed revisions it says R-1 standards may be used for single family, R-2 standards may be used for two family uses. Does 'may' mean it is at the option of the applicant or are you saying that is what shall be used?

Mr. Williams: No I think it is may be used but I think that generally what we have been looking at is R-1 is preferable for R-1. You don't get what you get when you go to the RM is ten foot setbacks and that tends to be much more impacting on these small properties than a six foot setback. So the preference seems to be to use the R-1 or R-2 standards instead of the RM standards.

Commissioner Holman: So because this is in RM zones though it would not go through Individual Review it would still have those impacts. My concern continues to be I don't think there is going to be, for good or for bad, I don't think there is going to be any R-1 or R-2 standards used probably because if the adjoining properties are redeveloping with no daylight plane why in world would they do that? I just can't imagine why they would. So I am looking

really at the transformation in my mind, I am looking at the transformation of neighborhoods and I don't think that really is in compliance with the Comp Plan.

Mr. Lusardi: Madam Chair, Commissioner Packer's comment I think is interesting with respect to that direction. What I think Staff can do before we go to the community and come back to the Commission is let's query how many lots we are really talking about and see if we can locate some of those lots and see what kind of transitional issues we are dealing with. We may be dealing with very few lots in that respect so let's query that information and bring that analysis back to you.

Chair Cassel: Thank you. Are there any other issues on the single family/two family uses other than our comment that we may want to clarify the way this is worded so it is really clear? Okay, then I would like to take a break for five minutes. We are about halfway through I think.

Bonnie is suggesting we have an interlude now before we get really busy and thank Dan for all the work he has been doing for us. This is his last meeting with us. He is going on to work elsewhere. I don't know how he could possibly leave us.

Mr. Dan Sodergren, Special Assistant to the City Attorney: Thanks. I really appreciate it. It has been great working with you. You are an excellent Commission and Palo Alto is lucky to have you. I will miss you and read about you in the papers as projects come forward.

Chair Cassel: Okay. I stopped that for a break. As we got through the single family and two family uses discussion. The next presentation should be on support personal services and retail and cafes. Staff?

Mr. Lusardi: Thank you. This is an issue that we are trying to address with the Zoning Ordinance Update with respect to trying to look at number one reality, what is reality with respect to this particular development type and number two implement a Comp Plan policy, L-16, which says encourage some type of support personal services, retail and cafes in multi-family or in residential areas that basically are neighborhood serving in that respect. Currently the zoning ordinance provides for through a Conditional Use Permit these types of retail uses in the RM-40 district with development of 200 units or more. I think Staff's position is reality you are not going to see that or you are going to see that very rarely. So if we really want to implement this policy Staff took the approach of the RM-30 district and the RM-40 district and reducing it to 50 units or more.

Now in order of magnitude there are approximately 58 parcels that are zones RM-40 in the City and there are 400 parcels that are zoned RM-30 in the City but a lot of the RM-30 parcels like Stanford West are already developed. So again we are looking at this number one in an order of magnitude as to what might happen in the future and number two as opportunities to provide neighborhood serving retail not just for a particular multi-family residential district but if you have a multi-family residential district in a transition area with single family how you could provide those kinds of services.

Our key here is to really to try and focus and limit and control this to neighborhood serving that is why we put in a definition from the Midtown and Charleston Center for neighborhood serving uses in that particular section of the ordinance. We want to continue to kind of refine that so it is

in fact neighborhood serving for the immediate neighborhood and not traffic generating or have other impacts with respect to that. So we really would like some Commission direction or comments with respect to this particular proposed revision. Thank you.

Chair Cassel: Okay, let's start with Michael this time.

Commissioner Griffin: Well Commissioner Holman has been doing a good job of pointing out the great densities that we have in Downtown North, which is in fact the neighborhood in town that has the highest density of any neighborhood in Palo Alto, and we are blessed with a preponderance of RM-30 as well as 15 zones. We also enjoy the amount of retail that we have that is accessible to the neighborhood. I have a little trepidation as to how much new retail we might see being interposed into the heart of the neighborhood however, and this proposal that Staff is making appears to be encouraging that to a degree. I guess I have some questions as to its viability in a developed neighborhood and how it actually would come to pass. If you have any comments on that Staff that would perhaps illuminate this topic a bit.

Mr. Lusardi: Again, I will be honest with you this is a little bit of a struggle for Staff on how to deal with this particular issue. It is an issue that is currently existing in the zoning ordinance so again we are trying to look at it number one reality based. If you look at it in that respect too I think if you talk to developers and such you will see that retail space in a multi-family or a residential district is almost subservient as far as economics to the multi-family. So you really have to have a strong base for that retail otherwise it sits vacant for a long time or it really doesn't operate.

The second part of that is if you look at the maps I think the Commissioner is right that there are a lot of multi-family districts that are really close by or next to existing neighborhood serving retail areas in CN, CD and CS areas. So it really is for us a little bit of a struggle as to how far you want us to pursue this. It is in the zoning ordinance now we can take it out but I think there is probably some merit to having an opportunity here if a development comes in and can create a mom and pop store, a small café with respect that we have that opportunity there. It is going to go through a Conditional Use Permit, it is going to go through ARB so it is going to have a lot of those controls associated with it as to the use and the design and how it functions with respect to a particular neighborhood.

Chair Cassel: John, I have a question about how many projects under RM-30 or 40 we are actually apt to see. We have just been talking about 60-plus percent of our sites being substandard and a lot of those sites are much smaller than that. So when people have come in with sites for 50 or more units they have tended to come in with PC zones. That might change with some changes in the zoning but 50 units is actually a fair number of units in one project for this City. Are there in reality not very many sites that would be large enough to do that?

Mr. Lusardi: I think that is a good point. I think again when we start from the reality in the existing ordinance is I think we would say there are almost zero chances of an RM-40 200 unit complex being developed with this retail component. So I think it is pretty straightforward to remove that off the table. Secondly, you are right that there are PCs that would come in and use this kind of development scenario but our hope is that the mixed use development in the CN, CS and CD where you mainly see your PCs with a retail and residential component happening that that would address that particular situation. So I think what we are trying to do is leave open the

opportunity if in fact it happens that we can get a 50-unit development or more with again a small café associated with it, a pastry shop or something like that. I think that it is just kind of keeping that widow of opportunity open if it is there.

Chair Cassel: Bonnie.

Vice Chair Packer: I think Curtis had something.

Mr. Williams: Just a couple of numbers. One is that it would take a 1.6 acre site in RM-30 to have 50 units on it so that is an awfully large site that we would be talking about. Secondly, there are also provisions in here besides the Conditional Use Permit to limit the size of the retail to no more than three percent of the total floor area of the building. It had to be on the ground floor or below grade. No more than 2,500 square feet maximum. So three percent or 2,500 square feet whichever is less. So it is pretty minimal and it would only happen on these larger sites, which I don't think are going to happen in Downtown North.

Chair Cassel: Bonnie.

Vice Chair Packer: I think this is a good idea because it is only allowing this opportunity for a developer that wants to put it in. It is not going to require it. In an area like Downtown North I would assume that because of all the other businesses that are so close the likelihood of a developer wanting it there and the likelihood of there being a 1.6 acre site that would allow it is remote. On the other hand in the part of town where I live in South Palo Alto where there are these vast areas of nothing but houses and no places to walk to to have a cup of coffee I am thinking down at the end of Colorado maybe somebody would see a possibility for a little coffee shop there. There is a higher density of apartments there on Colorado and Greer and around there. So in other parts of town a developer might see the potential and it would enhance the concept of the walkable neighborhood and a little place to go to in these areas. Whether it is economically viable I don't know.

That let me think about another possibility for these larger developments. I was thinking that some of the developments that the Housing Corporation manages, there are a lot of social services that are provided in these buildings and I was wondering if community center type that maybe are run by nonprofits or for profit, exercise studio or something like that could be something considered in lieu of or as a part of this retail possibility in some of these larger projects. Another kind of open space could be a covered community space that we might want to think about to make it nicer for the people who live there to gather. Just some thoughts to throw out in terms of possibilities.

Chair Cassel: Annette.

Commissioner Bialson: Just to follow on to that I think what you are looking for with a café or some other minor eating or drinking space is a community gathering space. If we can accomplish that recognizing that perhaps it is not viable for a retail establishment through some community room or meeting area I think that would be something we should pursue. But in general I am in agreement with your goal here. I think reducing the number of units from 200 down to whether it is 50 or 60 or 70 I assume Staff has gone through that is a good solution.

Chair Cassel: Karen.

Commissioner Holman: I am glad to see this has to have a Conditional Use Permit. I am generally in support of having some kind of services attached to this kind of development. There are areas where the RM-30 or the RM-40 abuts single family. In Downtown North I was flipping through my zoning map and in Downtown North for instance there is an RM-30 I think it was that abuts an RMD(NP) neighborhood. I have concerns about, I like the gathering aspect of this, I like the service aspect of it, I like being able to walk to services and I think all those are fabulous. My concerns regard cafes and delicatessens in terms of cooking facilities because that is where noise issues come up, it is where fumes and exhaust issues come up and I have real concerns about those. I think there are lots of services that can be provided including food and drink that wouldn't require onsite cooking. So those were where my real concerns lie with this as much as I am in support of the rest of the aspects of it.

Chair Cassel: Lee.

Commissioner Lippert: I think that the economics that is driving this is not going to allow for any of these uses. So I don't think it is a reality. I think to leave it in or to take it out it is not going to make one bit of difference because the truth of the matter is that in this case retail is going to be the bottom denominator and it is not going to have a significant enough draw to be able to be profitable. So I don't think it is a real situation.

Chair Cassel: Pat.

Commissioner Burt: Well, I think Lee is correct in that merely allowing for it will not cause fulfillment of Comp Plan policy L-16, which specifically promotes mom and pop stores. This is something that has been near and dear to my heart for a long time so I think I would like to take a little opportunity to refresh Staff and Commission who may not have been present when some of this was getting discussed during the whole Comp Plan debate. It almost didn't make it into the Comp Plan really because the Planning Commission at the time said great idea we would love to get mom and pops back but who will allow them? Everybody wants one in their neighborhood no one wants one next door. So how do you overcome that dilemma? There are perhaps ways to address that.

First we need to remember that we used to have mom and pops more frequently in this town and in a era when there was a different vision on walkable communities and zoning there was a notion to segregate those commercial establishments from the residential and we should all get in our cars to drive to get a quart of milk. So then in the new Comp Plan and the new urbanist concepts L-16 was put in there to fulfill a number of the walkable community concepts or attempt to fulfill or revitalize that. I think the truth is it is probably only going to come about in certain targeted circumstances whether it be a PC where we in fact treat it as a public benefit and I tried to get that in on the Sandhill development so that all those people wouldn't have to get in their cars to drive every time they need something. They could have something on their side of Sandhill on a huge development and we didn't get it through there. There was a several hundred unit development that we didn't get a little mom and pop or café so they can't get a cup of coffee without going across a main thoroughfare which probably means that they are going to drive their cars. So it would be in a PC in likelihood unless we can create some other incentives.

We also need to be concerned with fulfilling the objective which is not to have a circumstance where we would have nail salons or those sorts of personal services being what ends up being the highest and best use of a retail space in a residential neighborhood because that is perhaps where the greatest retail revenue would come from. So we zone something in intending to create mom and pops and instead we get something quite different. So I think we have to be targeted in how we try to achieve what I think we agree upon in general is a desired outcome because it not only has the convenience and the walkability aspects it also has what Annette talked about is as a community gathering spot.

I will just go on the broader subject of mom and pops, which may or may not be identical with the discussion of the RM-15 and larger. One of the discussions was well where could we put them and on public land is actually a place that was actually discussed at the time of the Comp Plan. At first thought people say what are you talking about? Well, we had essentially a mom and pop for instance at Rincinada Park until a half a dozen years ago and the family that had had it for about 40 years that I got greasy spoon burgers at when I was a kid at Rincinada pool finally retired. It is now a storage shed for the adult swimming. So we lost a mom and pop in the last half a dozen years on public land. In my neighborhood when I ask folks what would you think about a slightly different mom and pop that wasn't just a snack bar but maybe had a small retail and was a little café there I had assumed that people would say no I don't want to risk that there could be this retail establishment in our park and right next to our neighborhood. The response instead was very supportive. Separately I would like to cite that when the SOFA plan was just coming about University South neighborhood did a very extensive survey of what were desired outcomes. One of the questions and I can supply the details of the survey results which are very enlightening was a question about essentially a mom and pop. We have these mom and pops that are remnants today that have generally become most of their revenue is from selling beer and things like that. The answers to what people wanted and would patronize in a mom and pop was more of a late 20th Century/early 21st Century definition of a mom and pop. They wanted milk and eggs but they also wanted an espresso and a deli sandwich and a *New York Times* and fax paper and floppy discs. Maybe the times have changed they don't need floppies anymore. I think we need to target this concept and whether it is in this form in this section or in some other form I would like to see a greater focus in our ZOU on how we could fulfill Policy L-16. I am sorry I drifted off into an number of ways to fulfill L-16 that go beyond the scope of tonight but I think if we don't bring it up in this discussion we are going to lose sight of it in our ZOU. I think there are some prospective ways to achieve a very desirable outcome. So that's my comments.

Chair Cassel: At this point what you are saying is you would like to look at projects of 50 units or more being allowed to have a mom and pop in it as a start.

Commissioner Burt: I would like to see a liberalization of policies and perhaps a set of incentives that would encourage something along the lines of a mom and pop in micro retail establishment that served the neighborhood needs not a broader need. That might mean that we should allow it in something below a 50-unit development but we set a set of incentives and criteria that are more focused in their nature. I think the intension is good here in the Staff proposal but I think we need to look at how we achieve the desired outcome. I am not sure that there is really an alignment between this proposal and the outcome that we are probably in pretty good agreement on what we would like to achieve. I think it is going to take some additional effort to try to achieve that.

Chair Cassel: Thank you. Bonnie and then Lee.

Vice Chair Packer: I am just thinking about the kinds of new businesses that are cropping up such as little fitness centers in Downtown we see them. Except for Curves I guess many of them are kind of the new mom and pop. That is another kind of – every decade brings another kind of use that people find to gather. So that might be another example of another target of the type of activity that could add interest to the development and a gathering space for people.

Chair Cassel: Lee, you wanted to make a comment.

Commissioner Lippert: Curves is not a mom and pop operation, by the way.

Vice Chair Packer: I said, except for Curves.

Commissioner Lippert: Okay, good. I wanted to ask Commissioner Burt a question here, which is, would a reasonable liberalization in this case or a relaxation of the standards be to allow for that additional FAR of retail space beyond the maximum development of those multi-family units?

Commissioner Burt: Yes, I think that is a very good possibility on how we might encourage it. It could be just an FAR bonus provided that it were within a more narrow definition of retail and personal services. So if it were very targeted I think that might be a good way to achieve the outcome. But it has to be sensitive to the context. So once again if we had say a 30-unit development and then anybody who is buying into that development is buying into an existing new mom and pop then it is not disruptive to them whereas if you were to try to plunk it into a neighborhood you would have opposition. So yes, in the right context I think that could be an excellent incentive.

Commissioner Lippert: My only concern was that the FAR of the retail space would be displacing housing units and thereby not being economically viable because they would say well I can get better return on housing units versus retail.

Commissioner Burt: Right, so it is a bonus.

Chair Cassel: Karen.

Commissioner Holman: I am not going to have the exact numbers here but I am going to suggest that something else be considered. That three percent is what is allowed now and I think Commissioner Lippert's and Commissioner Burt's comments are probably right that the economics won't result in this kind of development. At the same time being considerate also of Commissioner Griffin's concerns I think they are valid about the amount of development. So what I would suggest is some looking at a requirement of again I am just going to throw out there maybe of one or one and a half percent of a development that is 50 units or whatever number of units be devoted to neighborhood serving retail. But I also agree with Commissioner Burt that the definition of neighborhood serving needs to be narrowed here. I point to the thing that I mentioned earlier about cafes and cooking and it doesn't matter whether someone who buys in now knows that there is a café there for instance that is going to create noise and fumes but just as a brief reminder we had a project that came to use where we rezoned the property on

California Avenue because of issues about cooking and noise and all of that associated with a restaurant facility. So I think to me that is one of those things that just goes off the table as a part of a residential development. So those would be my comments.

Mr. Lusardi: Madam Chair, can Staff make a recommendation here? I think what we would like to do is take these comments and we have in other places in the zoning ordinance such as in the industrial section that if it is an employee serving use like a childcare center or even a cafeteria that FAR doesn't count towards the project. So I think we can look at some incentives to try and achieve this number one. I think we can look at a broader range of uses, number two that might be neighborhood serving in that respect. Number three, I certainly agree with respect to the concern about nuisance generated by noise or odor so maybe we can put a little more control. In some commercial districts we have that noise and odor controls in there and I think we can add that to the section. So let us go back and look at this. I think our approach would prefer to be kind of as an incentive because I think it is almost impossible for the zoning ordinance to generate market driven retail in small residential complexes. So let us look at it as an incentive and focus on some uses that might actually work.

Chair Cassel: Maybe some specific uses that would work. I disagree with Karen in terms of some kind of coffee shop. I had to learn how to do some auto control for the coffee that was being brewed but the neighborhood single-family residents around my neighborhood love it.

Mr. Lusardi: Right. You may want a dry cleaner there where someone can drop off their dry cleaning and pick it up but you don't want a plant there, you just want an agent there with respect to that. So let us try and focus this a little more, look at incentives that might generate this kind of retail without trying for the zoning ordinance to necessarily a market driven regulation.

Commissioner Holman: Can I just concur with one thing with Staff? I think it is an important clarification that the neighborhood serving uses does include dry cleaners and I think what you just stated about pick up and drop off and not that service. Coffee I have no problem with it is the whole cooking thing. I don't have a problem with coffee.

Chair Cassel: You obviously haven't smelled the coffee roasting. Okay. Setbacks and daylight planes.

Mr. Williams: This gets back to some of the issues we were talking about before in terms of substandard lots. The proposal here is to modify some of the setback and daylight plane requirements. First of all when a property is again abutting and this is regardless of property size is abutting an RM or a nonresidential zoning there would still be required setbacks which are generally ten feet but not to require the daylight planes and the second story setbacks which we have right now that are actually required when you are next to a single family neighborhood. When the project would be adjacent to a low-density residential area we would suggest that the daylight plane ought to match that low-density residential daylight plane and then eliminate the second story setbacks that currently apply. I will show you those diagrams in just a second here. Then finally in terms of front and street side setbacks we have provided some flexibility there to reduce those. Generally they are 20 or 25 feet depending on whether they are on an arterial or not. To provide some flexibility for the ARB to recommend reducing those based on the context based design criteria that we come up with in particularly pedestrian oriented areas so that they

could move those buildings up closer to the street and the sidewalk in those particular instances. Claire, could you go back a few slides?

These two examples are RM-30 examples. We didn't develop them for all the different scenarios. What this first one shows is abutting a low density residential zone on the left side of the property line is single family residence, R-1 zone, and the right side is RM-30. Currently there is a ten-foot setback on the RM property and we are suggesting retaining that. There is a daylight plane of ten feet up and 45 degrees, which happens to be exactly what the R-1 daylight plane is too. So in this case it is mirroring that as we have suggested. However, there also in the current standards is a second story setback where the second story has to be set back and additional ten feet. It is our feeling that that number one creates very awkward designs and especially on narrow lots where you get this sort of wedding cake thing and there is almost no width left to have that second story. Secondly that is in this kind of a situation the daylight plane does a pretty good job of tapering the building back so that it is not overpowering the R-1 and in addition having the extra setback of ten feet instead of six feet on that side. So we have suggested that in this kind of a situation mirroring the daylight plane from the R-1 zone and maintaining that ten foot setback should be we think adequate and that we don't need to have that existing second story setback.

On the next slide we looked at if we are adjacent to RM or commercial or industrial uses that currently there is a daylight plane associated with that as well but in that instance it would be more appropriate to have the ARB look at the context of those buildings and determine if there is an upper floor setback that is appropriate to require that if not to not require that and to not have that daylight plane automatically kick in on all of those projects. So if you are adjacent to these nonresidential or other multi-family that we wouldn't have a daylight plane requirement as well. We would still have the ten-foot setback and you have other various criteria but not to have the daylight plane. So those are the key changes. They would affect substandard lots and it would affect other lots as well. We have had some discussion about going, and we are going to go to the ARB in March to explore some of these ideas further because we do have some concerns that maybe it would be more appropriate rather than having ARB have to have too much discretion of maybe having some more criteria in a case like this so you don't have a 20 or 30 foot high wall at that ten foot line. We don't think ARB would allow that but by the same token maybe it is preferable to have some criteria and we would like to approach them with some of those options when we go to them in March.

Vice Chair Packer: Annette.

Commissioner Bialson: I absolutely agree with your proposed revisions in light of what you said with regard to the ARB being asked what they would want by way of some policy guidelines or some direction. I think to give this amount of discretion to the ARB may not be necessary desirable both for the purposes of some direction to builders, developers and owners and to the ARB. So I do see this as being something that is worthwhile but I would like to see some feedback from both the ARB and perhaps from us up here with regard to some more specifics there. I do like to have these things customized somewhat and having the ARB allows that to occur. Other than that I don't have any more specific direction maybe Lee or others on the Commission might.

Chair Cassel: Karen.

Commissioner Holman: You heard some of my concerns earlier about this proposal. I don't have so much concern about the existing second story setback. I think it does lead to some kind of whacko design. So I am not really having difficulty with that it is the daylight plane that really concerns me. A clarification on something, if there is a parcel that is zoned RM-15 and an applicant wants to develop two units there, it is a small lot that does or does not go to the ARB?

Mr. Williams: It does not go to the ARB if it is just two units. It has to be three units or more.

Commissioner Holman: So thank you for that. So given that we have a daylight plane that is being proposed to be eliminated. I think diagrammatical examples would be very enlightening as to what the result of this could be because you could have full height, no daylight plane and if I lived in Downtown North in a single family home or a duplex and something that this enables was built next to me I would be sorely disturbed because again I think diagrammatical examples would be very enlightening.

Chair Cassel: Lee.

Commissioner Lippert: As a former member of the Architectural Review Board this is a very appropriate solution. We have come up against this on a regular basis. The net result has been that applicants file a design exception on them and invariably they are most of the time granted without very much discussion. My thoughts about this is first of all the term daylight plane is a misnomer. We have continued to use it only because of its familiarity in terms of a definition. What we are really talking about is something that is contextual. If Commissioner Holman has a concern with daylight per se I think that the way to handle that really is maybe by encouraging applicants that are submitting the RM proposals in an R-1 zone to submit a [helidon], which is a three dimensional model, or a some sort of CAD model that actually shows how shadows are cast on adjoining properties. With regard to contextual setbacks this is a very appropriate solution.

Chair Cassel: Pat, did you want to say anything at this time?

Mr. Lusardi: Madam Chair, can I also point out that I think the issues raised here with respect to how you illustrate these types of issues either for an ARB review or even for a two unit review I think can be appropriately addressed in the context based design form code. I think we have a good section in there where we will be able to delineate these details whether it is a Staff level review or whether it is an ARB review and we will use the ARB's direction on how those diagrams work and function.

Vice Chair Packer: I had a question and it was just when I first read the language in the code. It was unclear to me whether the requirement for a daylight plane when it is next to low density residential or the lack of requirement for a daylight plane only applies to the side that the new building is abutting against. So I think some clarity in the language. It would only trigger the daylight plane or the no daylight plane on the side that is affected by what is across the street. So the side that is at 90 degrees would be dictated by the other adjacent use. Is that correct? So if there were a building that had R-1 to the side and R-1 in the back the daylight planes would be on the two sides.

Mr. Williams: Correct, and if there were commercial on the third side then it would not be on that side.

Vice Chair Packer: Okay. So I was thinking about this. All over town wherever there are these small RM-15 older buildings they go straight up. I know several in my South Palo Alto neighborhood right next to R-1 and it just seems to be part of the neighborhood. They are just there these straight up buildings that didn't have daylight planes because they were built a long time ago. I believe there are probably many of those in Downtown North. So it is not the end of the world but this would be even better because you would have the daylight plane now required when you are next to low density residential. So I think it is a good thing. Also, keep in mind these are not going to be boxes but they will be articulated with balconies and the required minimum private open space, etc. so that they will probably look a lot more interesting than these diagrams show.

Commissioner Holman: The diagrammatical examples I was asking for would be not just coming in the future as a part of the form code but also for Commission purposes as we look at this again and also going forward to the community. So I was looking for them coming then.

We had a long discussion about daylight plane when that was discussed previously as a part of the Zoning Ordinance Update. As I am recalling one of the purposes of the daylight plane was to provide light and air to neighbors that that is one of the purposes. So maybe we have different understandings of that but that is what my understanding was.

The other thing is it does result in some coping if you will of buildings so that they do have a rhythm of construction. So those are my comments and concerns.

Chair Cassel: Lee.

Commissioner Lippert: I would like to point out one other thing to my fellow Commissioners that the truth of the matter is that these two diagrams are almost identical. What I mean by that is that if you were to have single family residence that somebody had an extra wide lot and they said oh, well I am going to develop that lot and come back ten feet from the side yard property line they could in fact be creating a building with a profile that is very similar to this multi-family development abutting an R-1 single family dwelling. In fact the most important constraint here is in fact the ten feet high and the 45-degree angle because that is really what is determining that context based form. As long as this building says within the envelope it really can't be any worse than the adjacent property.

Chair Cassel: I will be interested to see how this comes back with the context based design and some of your other comments as you research this a little further. It looks like an interesting concept that might save a few things from going to a more detailed evaluation if we can build some of this in. I think it might make some people in single-family residential areas more comfortable because they will know that their neighbor is going to have to have some relationship to them. It will give them some security.

Okay, the next subject is minimum residential density.

Mr. Williams: This suggestion is basically straight from the Housing Element. Program H-2 calls for minimum residential densities of eight units per acre in RM-15, 16 units per acre in RM-30 and 31 units per acre in RM-40. So we have written that into the proposed code however again we are suggesting exempting those parcels that are substandard in terms of the size and width because of the constraints that go along with that and sometimes it is just not practical to make that work. But again, the rest of it is from the Housing Element it is intended to assure that there are a certain number of units built on conforming size lots and effectively in that respect would overall reduce the average unit size. If an RM-15 had to build 16 whereas you otherwise might build ten units per acre those units given the same FAR would be smaller units than if you had built at the lower density.

Chair Cassel: Annette.

Commissioner Bialson: I think this is as you say part of the Housing Element and we went through quite a bit of calculation and community discussion and acceptance on just these numbers and I find them very acceptable.

Chair Cassel: Any other comments? Lee.

Commissioner Lippert: Just one thought. This is just very minor but I think it would help clarify things a little bit. Maybe if it was redefined as RM-15 and then use the less than sign and then follow that up with eight (RM-15<8). RM-30 and then the less than sign 16 (RM-30<16). Then RM-40 and then the less than sign and then 31 (RM-40<31). That way it gives people an idea as to what the range is here when they move forward with it because it is hard to find maybe some of this in the small print. If it is right up front in terms of the title it gives them some basis upon which to work with.

Chair Cassel: So you are saying use 16 to 30 units per acre instead of just 30?

Commissioner Lippert: Yes.

Chair Cassel: I am not being specific about how you write it but that is your intent.

Commissioner Lippert: Right. You are basically saying greater than 15 and less than 30.

Chair Cassel: Okay. Anyone down there want to comment on that?

Mr. Williams: No, I think we will clarify it like that. I actually think that in the Housing Element it has something like that. It is more of like saying instead of the minimum is I think it might say 16 to 30 or that range.

Chair Cassel: I think I am seeing nodding of heads here. Any other comments on this or should we go on to the next one?

The next one is usable open space requirements.

Mr. Lusardi: Yes Commissioners this is an item that has really come out of our work with the urban design consultants and it is applicable both in the mixed use residential component as well

as the multi-family. To kind of summarize it it is an effort to try to refine and define what is good usable open space for multi-family development both common usable open space and private usable open space. We are not suggesting to change the percentage of total open space required on a site but what we are suggesting is that we really should prescribe the portion of open space to be usable in square feet per unit and then how that usable open space is actually applied with respect to a project and delineate between common and private as far as square footage and allow for some flexibility for a developer and applicant to apply some square footage over and above the minimum requirements towards either usable common open space or usable private open space. I think our intent here and our direction here is to really try and qualify and quantify how open space is used. We have seen a lot of projects come through that have residential units and they have just an open space that is very minimal as far as dimensions and use goes but it counts towards the open space. So we are really trying to make this a much more quality use with respect to multi-family development.

Chair Cassel: Pat.

Commissioner Burt: I concur with Staff that this has been a problem with multi-family development of not having the so-called usable open space being very usable, although I have somewhat different perspectives on how to achieve that objective. If the details are on page six of Attachment A-2, which is 18.13-040, Section F, Usage Open Space. I can go into the generalities while you are locating that. A number of the descriptions that I saw there seem to be moving the concept of the usable open space in an inward directed manner for a multiple unit development. One of the things that is embodied in our Comp Plan and the new urbanism as well as a lot of community discussions is having multiple unit developments be more engaged with the neighborhood, more a part of the neighborhood engaged with the street and so looking at how you can balance the objectives of safety and where appropriate privacy with also engagement with the community. I think of an example on Whipple Road in Redwood City. It is a fairly new multi-family development and it is just about a quarter mile west of Old County. What they have is a pretty simple one. I don't know if it is a below market rate development or not but what they have is their open space is a single public lawn that is on private land. It is kind of surrounded by an L-shape development. As I read this proposal it is kind of 180 degrees from what we are proposing here. As I have gone passed that I have seen it used as a real active open space like essentially a private park for that it is probably an RM-30 sort of development. There are none of these efforts to insulate it and buffer it from noise and provide the privacy. Instead it is just the opposite. It is engaged and it is actively used by the residents there. There is an interrelationship the kids that reside at that apartment house and the kids next door in other apartment houses come and they play ball on that land or people have picnics on it as a true private open space. I think that is a much more desirable outcome and that is what I would like to see us do is create those spaces that may be private open spaces but they are less distinguishable as being insulated and private. They are privately owned but they are visually and to some extent engaged with the community. I think that is something much more aligned with many aspects of our Comp Plan.

Second, for some time I as we discussed in the ZOU element on the Stanford Research Park we have our sustainability element that the City has now adopted and we have massive amounts of essentially wasted passive landscaping. It is the beds of junipers or lawns that aren't really usable and they are just a waste of irrigation, fertilizer and pesticides for something that is green but it is not native plants, it is not a sustainable vegetation in terms of low water usage, low

pesticide, low fertilizer. It is not an active space that is used by the community. All those things can be turned around 180 degrees and they could take several forms. There is no one perfect form. One may be a prescription to have a greater percentage of the open space be landscaped with either native plants or with a community garden so it can be essentially edible landscaping which is part of this Valley of Heart's Delight concept that has been adopted in Silicon Valley to try to help in small ways to return to some of the agricultural roots of our valley. We are not going to reverse ourselves but we can do some things that achieve a variety of objectives at the same time and are actually, when people have these things they value them, they say this is great. We just aren't creating the sort of requirements that builds the landscape community that we would ultimately desire. So I would like to see us strengthen those elements. I think we are well intentioned in trying to have a greater value to this public open space on these multi-unit developments but I would like to see it integrated with our sustainability policies and I would like to see I engaged with the community to a greater degree where possible.

Chair Cassel: Karen.

Commissioner Holman: A follow up to that, that was one of my notes to bring up to this whole idea of garden and Valley of Heart's Delight. A couple of us, obviously Commissioner Burt and I, had had some months ago some discussion with the leader of that program Valley of Heart's Delight. They were quite, quite interested in pursuing this and having input in this so I think it would be instructive and helpful to enter into some dialogue with those folks to implement that here. They would have knowledge on how to do it and where it would be appropriate and where not.

Chair Cassel: Bonnie.

Vice Chair Packer: I agree with a lot of the sentiments of the first part of your discussion, Commissioner Burt, about having land that relates to the public. The question I have though is from the owner's point of view whether there are some real liability issues that they may be facing with their insurer or whatever about having public access to part of their property that would make them reluctant to do this. So one way maybe to approach it, I know there is this language in here which says that the public space shall be located where it is protected and away from the public, but maybe an opportunity could present itself where in lieu of providing the inner courtyard the developer could dedicate the front part or a side part as public land in some kind of partnership with the City so that the developer shares the liability of other people using that space. I think the legalities of that have to be looked into as much as it is desirable to have this public relationship it may not be something that is legally feasible from the developer unless that land is made public. So that is just a little wrinkle to an otherwise good idea.

Chair Cassel: Michael.

Commissioner Griffin: If I understand Staff's proposal here it seems to grant to tenants of these units a certain amount of private space. To me that is equally as appealing as to having a large public green in front of a building. I am attracted to the Staff proposal from the standpoint that it would allow an owner or a tenant to be able to have a small private gathering and have his barbeque without necessarily having to go down in front and barbequing in the public space. Now maybe I have misinterpreted a little bit what Commissioner Burt was proposing but I think the Staff proposal fits my concept of what would be appropriate very much.

Chair Cassel: Lee.

Commissioner Lippert: I think that you are going to find that open space is driven really by site configuration and layout of the unit. I want you to imagine these and I am going to give some descriptions here. If you have a multi-family building and it fronts on a street and you have a private balcony and the private balconies overlook the street what it does is actually allow opportunities for people to sit out on their porches and to watch the street. It provides a certain amount of protection to the street. What I am describing is really a lot Jane Jacob's stuff. However, what it does also do is it creates a little buffer from the unit so if people are not sitting out on their porches they are not watching the street. So you take something like a major artery people are less likely to sit out on those balconies because there is a lot of traffic going by. Whereas on one that has a lot less traffic people might be inclined to sit out on those balconies. You get above the second or third floor nobody goes out on those balconies. There is no connection to the street anyway. You are up above where the activity is happening.

Now I want you to imagine again the same scenario but talking about side yards. People that are on ground floor units that have a side yard right outside their window, what a great thing they can have a little piece of yard, they can have a little barbeque there as Commissioner Griffin mentioned. They even have a place to put in a small family garden maybe plant a couple of trees. You get up above that and all of a sudden this balcony becomes a crow's nest from which an individual can peer over not just into the yard there but over the yard into the adjoining property. I think that that can begin to become a little problematic. What I am saying is there is no hard and fast, black/white here. What really needs to be done is to look at a number of configurations and how these units are massed or stacked together. Maybe what you want to have is some of the internal private spaces happening internal to the development when it comes to side yards and external when it comes to the front of the building. So that is just a way that I would like my fellow Commissioners to look at this.

Chair Cassel: Annette.

Commissioner Bialson: I find what Lee said to be very appealing and I can see that each complex is going to have different solutions to the issue. To the extent that we can do something similar to what Pat described I am in favor of that rather than having balconies that become storage pits essentially and not provide what is needed for that usable open space for residents. So again it sounds like we need a customized solution to this which ARB may give us.

Chair Cassel: Bonnie.

Vice Chair Packer: If I may I would like to interject another thought that is related to this and is a little bit beyond. I remember in the Summerhill development there was some discussion about sunken patios and that brought to mind the very urban concept of units that are below grade that can have an outdoor part slightly below grade. There was nothing in the development standards that talked about units below grade like you have in London and New York, you have these apartments and you have the windows looking out onto the sidewalk. I don't know if that could be a design option and this isn't addressed at all as to whether that would ever be possible somewhere. You might have some below grade parking in part of this structure and then some units nearby and then it would have some slightly sunken patios. So I just wanted to bring this

out to maybe there are some development standards that would make this possible with appropriate review. I was thinking of the Sunset House that had that light well going into the finished basement.

Chair Cassel: You wanted to say something, John?

Mr. Lusardi: Yes. I think we got the gist of the Commission. Again, to reiterate I think our goal here was to define open space in a usable and qualitative fashion. I don't think our intent was to shove it back into the corner of a development necessarily. But I do think we need to look at it in that kind of qualitative, usable aspect number one. Number two I do think we need to be careful about the liability and the maintenance issues. That is not to say that an open space can't function more than just for the residential component. Bonnie raised Summerhill and there is a beautiful muse that is part of the condominium project that serves the community and is an open space element as well. So I think let us look at that definition a little more in the context of how it works contextually, how it works with sustainable elements and how it actually should function. We will even look at in the context of what types of open space uses could be in a project such as a play area or a sustainable garden or something like that. So we will refine that more.

Chair Cassel: Thank you. One of my concerns has been that there hasn't been really usable open space and I am glad to see that being addressed. Do you have something else on this, Pat?

Commissioner Burt: Good, I think John has captured most of the concerns. I wanted to point out a couple of clarifications. There is a lot of text in the actual proposal for the zoning ordinance and I have not read it for all the areas I did read it for this. For instance for Michael if you look at that page that I was referring to there are two sections that Staff has talked about. There is the private useable open space and the common usable open space. I think what your concerns were about have to do with primarily the private usable open space and my comments were referring to the common usable open space. So the two would both exist in the Staff's proposal and my concerns are there. As far as the liability I agree with John there is just a lot of not only the Summerhill example would come to my mind, the one up in Redwood City as well. Obviously this is an issue that has been dealt with and there are obviously ways that the liability issue is overcome and I think we just need to not worry about things that look they have been solved in other circumstances. We should look at how to make sure that we solve them as well.

Chair Cassel: Okay. Shall we go on to performance criteria? Karen.

Commissioner Holman: One question. I know parking standards are going to come back later but I had raised some time ago for mixed use and multi-family where underground parking could take place. So I am going to raise it here again that I have a concern, I don't know how other Commissioners feel, that parking now can take place underneath City streets and City sidewalks. So is that going to be addressed in these standards now or will they be addressed when parking comes back? The parking is just going to relate to parking ratios I think so wouldn't the development standards be where this would be raised?

Mr. Williams: There will be a section on design too for parking and we should address it there. I don't know if you have any more information where that is.

Mr. Lusardi: I think that is where we prefer to address it. We are going into performance criteria where there is some discussion of parking performance criteria as well with respect to underground parking. So if you want us to look at it in that context we can do that as well.

Chair Cassel: Okay, so the next subject is performance criteria.

Mr. Lusardi: This is currently in the ordinance for multi-family districts listed as Multi-Family Residential District Guidelines. We are trying to move away from the term 'guidelines' in the Zoning Ordinance Update as a specific connotation. So we are going with performance criteria. Our first real goal here was to take the existing performance criteria and take it so it is much more contemporary and usable. It is an old segment that has been there for quite some time without a lot of updates but let me reiterate that the Current Planning Staff put a lot of emphasis on this is very important stuff that they feel should be there so they can direct an applicant or a developer that they have to address these specific issues. So that is why we want to update it and make it a little bit stronger and with a little more clarity to it. So we are updating it, we are clarifying it and we are consolidating some provisions. We are bringing some up to date for instance I mentioned in the Staff Report that the lighting standards are very old that we use now and we need to bring those up so we are working with PG&E Pacific and NG Center and utilities to do that. We also want to develop this in a way that it is in concert and coordinated with the context based design form code that will be the section that follows it. We certainly want to put in requirements or criteria for considerations for minimizing impacts on neighboring properties. Lastly, we want to bring in some very important elements that both this Commission and the ARB have emphasized over and over again and that is issues like sustainability which are not in the zoning ordinance but should be with respect to how these developments should addressing issues like green building design and sustainability. We will be meeting with the ARB in a couple of weeks on the performance criteria but what we would like tonight are any comments you might have or any issues you think we may not be addressing currently in this section.

Chair Cassel: Karen.

Commissioner Holman: I have a question and concern about lighting. I think the City has done a good job overall in addressing spillover lighting but the intensity of some of the new lighting is quite jarring to areas. If Staff wishes I can point out specific developments where it is an issue and people who live in the developments are even calling it prison lighting because it is so intense. I would be happy to point those out to Staff. So it is more than just spillover lighting it is the intensity. So the amps may not be the issue it is the intensity where there are real concerns and problems that affect the neighborhood.

Vice Chair Packer: I think this performance criteria is a great start addressing so many of the various issues that come up. I notice that there will be cross-reference in the form code part, the context based design. The last page of our Staff Report has a list of all the different departments like Building and Public Works and Utility that address related issues. I didn't really discover that until I got to the end. So I just wondered if there could be additional items in the performance criteria that also cross-reference to this chart in the very back of our Staff Report. For example when I was going through the performance criteria I thought we sometimes have been talking about curb cuts and then I discovered that there was a 20-foot minimum. So I just thought some cross-references like that so that when somebody is going through the code they could see some of those areas. Noise is one of them that isn't in here and yet. It was just a

suggestion. The other thing is I like the way you have requirement and then items to consider as considerations. I think that is a very good format. As you finalize it you might want to make sure that the verbs are permissive in the items that they consider and they are mandatory type verbs under the requirements. It might make it easier to understand for the reader.

Chair Cassel: I have a question. Why did you not put this in a technical manual rather than in the zoning code itself? I also have a quick comment. Subject and department on that sheet on the back need to be reversed I think. You have it by department. It is a minor thing. Why did you decide to do this in the zoning code and not as a technical manual like you have done with some other things?

Mr. Lusardi: Well it exists in the zoning code now and again as I stated the Current Planning Staff feels that it is very important to be part of the regulatory document. The technical manual will expand on some of these issues much like as was mentioned with intensity of lighting and those kinds of issues. We can expand upon that in the technical manual but I think we feel it is very important to have those performance criteria in the zoning ordinance as 'shalls' and 'consider' and then we will cross-reference it with the technical manual for more details. We can cross-reference certainly the page that Commissioner Packer referenced in the context based form code. Really, our intent on that page is not only to reference other regulatory requirements with respect to development but to have a hyperlink to those regulations too. You can hyperlink from that page to other regulations. Our intent with the criteria is to establish very basic criteria that have to be met and then we will expand upon that as far as details or further considerations in the technical manual.

Chair Cassel: Thank you. Are there any other questions or comments? Lee and then Michael.

Commissioner Lippert: I have a slightly different take on noise. We think of noise as being something that a site generates in the way of equipment and it sends it out and it becomes a nuisance or a disturbance in the neighborhood. We have had a number of speakers come before us, members of the public, that actually have looked at it the other way around which is the impact of noise on a site or on development. One of the performance criteria that really needs to be addressed or looked at is what is called the STC Rating which is the Sound Transmission Coefficient. What that begins to bring into play are things like acoustical insulation in walls and roofs and ceilings as well as the sound acoustical separation in window units. What I am specifically thinking about is multi-family development that happens along major transit corridors, i.e., adjacent to the railroad tracks which we have a fair majority of them here and as the Baby Bullet train gains momentum as it passes through Palo Alto I don't know how many of you have stood on the platform when the European rapid trains have passed you or have stood on a platform with the [shinconsen] in Japan coming through but it literally can blow you off the platform. That is just with the sound wave before it hits the platform. So that is one consideration. Also with regard to proximity to Bayshore Freeway as well as several sites that we have reviewed in the LM district especially if new multi-family housing is being considered adjacent to another industrial site. So that is just something that I think that we should begin to address in this with regard to sound and its impact on multi-family housing.

Mr. Lusardi: Just kind of in response to that I think we can look at some kind of criteria in the zoning ordinance that says that a development should consider this. I don't think we want to go so far as to start to put building code requirements and Title 24 requirements in the zoning

ordinance. I think we want to be careful about crossing that line so we will look at it in that context.

Chair Cassel: Michael? No. Karen.

Commissioner Holman: When are we scheduled or is it scheduled to revisit the Noise Ordinance? I think it was supposed to have been revised long ago.

Ms. Grote: Actually the Police Department is the lead on that and I don't know when that is on their schedule. It is Title 9 and so that is a different chapter and they have purview over it. We can check to see if they have it on their schedule.

Commissioner Holman: Would that be coming to us for comment at all?

Ms. Grote: Not as a land use issue. It would not.

Chair Cassel: Okay if there are no other comments on this item then we have finished this for tonight. This will be coming back to us in about two months, you said? One more thing? Yes, we have a definition.

Mr. Williams: Just real quickly we included ten or so definitions that relate to multi-family development sections. We haven't make changes to those with the exception of two. One is the definition of 'usable open space' where we have incorporated some of that qualitative language and based on particularly Commissioner Burt's comments we will be revisiting that and try to reflect whatever goes into that section will go back into that definition too. Then on 'gross floor area' we did suggest changing that to exclude open balconies as we did in the low density and R-1 to exclude open but covered balconies from floor area calculations. Right now they are included and we felt like that was not appropriate and it discourage the use of balconies to help breakup the massing of the structure. So those are the only two real changes. I think we made a couple of little changes on the BMR just to meet the definition in the Comp Plan but not on the BMR requirements.

Chair Cassel: Bonnie.

Vice Chair Packer: Is the neighborhood serving retail definition going to end up in the definition section?

Mr. Williams: Yes, when we get to the commercial part of the code.

Vice Chair Packer: Thank you.

Chair Cassel: Lee.

Commissioner Lippert: Just a comment with regards to the modification of gross floor area to exclude open balconies from GFA. I have a question on that. Are we also allowing open balconies adjacent to the front of the property to encroach into any setbacks?

Ms. Grote: On the second floor I don't believe so. On the first floor we do allow a four-foot encroachment into a front setback. I will need to check the code on second floors and above but I don't believe we do.

Chair Cassel: Karen.

Commissioner Holman: I think when we did the low density residential if I remember correctly we were more specific in the language about balconies that were counted or not against FAR. As I recall when I read this it said 'substantially open' and this pretty much open to interpretation. So I think that could stand some refinement.

Mr. Williams: We will check to be sure they are consistent.

Chair Cassel: Is there anything else? I think we have done it for the night. Thank you. We went through the whole piece and have finished it and congratulations to us. I think the Staff will appreciate that and it will make it easier to move on.

Mr. Lusardi: Madam Chair, one quick announcement for the benefit of those residents watching at home. We do want to announce that the R-1 single-family chapter and the low-density residential chapter will be going to the City Council on March 14. So that is the date they will be hearing that item.

Chair Cassel: Thank you. We wanted to hear that too. We will be glad to have that finally before City Council and it will be good to hear what they have to say.

The next item on our agenda is Reports From Officials. We were to have a budget briefing by Steve Emslie. He thinks it would wiser if we do it at our next meeting, which I think is the ninth of March.

REPORTS FROM OFFICIALS

- Budget Briefing – Steve Emslie, Director of Planning and Comm. Environment

Mr. Emslie: That is correct.

Chair Cassel: That doesn't take any motion or anything. Steve has just decided he would like to talk next time.

COMMISSION MEMBER QUESTIONS, COMMENTS, AND/OR ANNOUNCEMENTS.

Chair Cassel: Do we have any Commission Member Questions, Comments or Announcements? Karen.

Commissioner Holman: Yes, one. Earlier I had asked about the Noise Ordinance and I would like to ask about the possibility of that being referred to the Commission for comment. I know there is at least one other Commissioner who would be interested in that.

Commissioner Griffin: Yes, I would like to support Commissioner Holman in that request. I think that considering the number of years that we have sat here listening to noise come up over and over again it is an appropriate topic for us weigh in on.

Ms. Grote: We can carry that request forward to our Police Chief.

Chair Cassel: Are there any other comments or questions? Lee.

Commissioner Lippert: Is there a report on action Council took on Monday? Who was the representative there?

Commissioner Burt: I was the representative. I will give you a report on it and I guess there are two aspects that I should report. One is that I think unbeknownst to the Commission at the time we considered the Variance at 705 Ellsworth it was the first Variance that fell within the new process streamlining program and consequently there was no discussion at the Commission and I even spoke with Commissioner Griffin, the maker of the motion, to get a clarification. This was the first Variance that went to the Council under a Consent Calendar item. We had an amendment by Commissioner Griffin that asked the Council to pay particular attention in their review of the Variance to three upstairs windows. Well, that was a mute point unless the Council was to take it off of Consent Calendar. So I think that that is something that we need to understand for the future. The process as we adopted the process changed last year now in most circumstances means that the Council will not do a full review of an item. So we will want to consider that when we consider whatever recommendations that they are not going to review it unless they pull it off Consent Calendar.

As it so happened they elected to do so. Four Council members requested to pull it off of Consent Calendar and they are going to have a hearing on it which I think answers Commissioner Lippert's question. I did not attend because in fact it is a Consent Calendar item and the way the process now works there is not a Council discussion and debate in order to pull it off of Consent Calendar they simply vote on whether to do it or not to do it. Then at the subsequent meeting when it is agendized is when there is substantive discussion that will occur.

Chair Cassel: Thank you Pat, that is very helpful to know that.

Commissioner Burt: Then I had a couple of comment things. One is I just wanted to mention to Commission and Staff I saw that in the AAA magazine this month, *Via*, there was a two page article on Palo Alto. It was pretty auditory about a lot of the aspects primarily Old Palo Alto but many of the things we address as a Commission and struggle on and get different criticisms from different elements of the community and here was a very impartial source saying that this is a very desirable community to visit for a variety of reasons including the sorts of things that we have tried to retain in the character of the community. It might be a great handout for Council and Staff and the public.

Mr. Emslie: I believe I get it but I don't think I have seen that copy yet.

Commissioner Burt: It just arrived yesterday.

Mr. Emslie: Okay. If I don't see it in the next couple of days please give us a copy. I will pass that along.

Commissioner Burt: Great. Then earlier in the meeting there was a discussion on the group Valley of Heart's Delight. Is that something that would be appropriate to have them make a presentation at one of our ZOU meetings given that the City sustainability program has been adopted as official City policy? I think it would be very informative for the Commission and maybe would be the sort of thing that we would promote to the public and make sure that they are well informed that that would be available and what it is all about.

Ms. Grote: We would be happy to do that. We can call and invite them.

Commissioner Burt: I bet we could get Mayor Burch support in it.

Chair Cassel: Okay, any other comments? Lee.

Commissioner Lippert: I have a procedural question. What is the procedure when a member of the Commission voted in variance to an item that is the dissenter in an item and it comes before Council? Does that person that had a different opinion than the majority get to represent our point of view or should another member in fact be present at that City Council meeting?

Chair Cassel: It has been the policy that the person representing the Commission should be representing the opinion of the majority. They should be going and expressing and telling the Council what the majority opinion was.

Commissioner Burt: It is the obligation of the Commissioner to represent the position of the majority. I would say that if a Commissioner does not feel comfortable in doing so then they may want to request someone else to represent. But in many of our circumstances we have obligations to present ourselves in impartial manners in a variety of circumstances this being one of them.

Chair Cassel: We have some minutes to approve. Sorry, Karen.

Commissioner Holman: I was pointing to Lee so you wouldn't miss him but also I had one. The APA Conference is coming up. Will Staff be sending out something so we know how we can participate? This is follow up on a previous communication.

Ms. Grote: Absolutely. We do have about four registrations, four to five maybe six registrations and we can divide those amongst our Staff as well as Commissioners if you are interested in attending part of the conference. So we will pass that information on to you.

Chair Cassel: Thank you very much, thank you Karen.

Okay, we have minutes to approve for January 26.

APPROVAL OF MINUTES: January 26, 2005.

MOTION

Commissioner Bialson: So moved.

Chair Cassel: Is there a second?

SECOND

Vice Chair Packer: Second.

MOTION PASSED (7-0-0-0)

Chair Cassel: Annette moved and Bonnie seconded. Are there any corrections? All those in favor please say aye. (ayes) That motion passes unanimously.

Our next meeting will be March 9, 2005 for a regular meeting of the Planning Commission.

NEXT MEETING: March 9, 2005.

Chair Cassel: We are now adjourned and thank you very much for a good meeting.

ADJOURNED: 10:30 pm