



# PLANNING & TRANSPORTATION COMMISSION MINUTES

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*Wednesday, January 25, 2006*  
**REGULAR MEETING at 7:00 PM**  
*Council Chambers*  
*Civic Center, 1st Floor*  
*250 Hamilton Avenue*  
*Palo Alto, California 94301*

**ROLL CALL: 7:05 PM**

**Commissioners:**

*Patrick Burt - Chair*  
*Karen Holman – V-Chair*  
*Lee I. Lippert*  
*Paula Sandas*  
*Phyllis Cassel*  
*Daniel Garber*  
*Annette Bialson*

**Staff:**

*Steve Emslie, Planning Director*  
*Donald Larkin, Senior Deputy City Attorney*  
*Andy Coe, Interim Deputy Director*  
*Amy French, Current Planning Manager*  
*Chris Riordan, Planner*  
*Zariah Betten, Executive Secretary*

**AGENDIZED ITEMS:**

1. 2825 & 2865 El Camino Real
2. 850 Webster Street – Continued to March 29, 2006
3. Discussion of Commission Practices Regarding Individual Site Visits for Planned Community Projects.

Chair Burt: We will be convening now. At this time I would like to call to order the meeting of the Palo Alto Planning and Transportation Commission for Wednesday, January 25, 2006. Would the Secretary call the roll? Thank you. Let the record show that Commissioner Bialson has joined us and we have seven present.

**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.

1 Chair Burt: At this time we have an opportunity for members of the public to speak on items  
2 that are not agendaized. I do not have any cards from any members of the public.

3  
4 **AGENDA CHANGES, ADDITIONS AND DELETIONS.** The agenda may have additional  
5 items added to it up until 72 hours prior to meeting time.

6  
7 Chair Burt: On that basis I would like to make an announcement of an Agenda Change. Item  
8 number two which is 850 Webster Street, a request by Channing House for a Planned  
9 Community Amendment has been continued to a date certain, which would be March 29. There  
10 is no motion required by the Commission for this purpose.

11  
12 We will continue now on item number one which is 2825 and 2865 El Camino Real, a request by  
13 Premier Properties on behalf of Morris Associates for a Site and Design review application to  
14 allow the construction of a mixed use building in a CS zoning district. Design Enhancement  
15 Exceptions are requested as well as a Variance request. We have an Environmental Assessment  
16 that resulted in a Mitigated Negative Declaration. Would the Staff like to make a presentation?

17  
18 **NEW BUSINESS:**

19 **Public Hearings.**

- 20  
21 **1. 2825 & 2865 El Camino Real [05PLN-00107]\*:** Request by Premier Properties on  
22 behalf of Morris Associates for a Site and Design review application to allow the  
23 construction of a 13,988 square foot mixed-use building on a 22,491 square foot parcel in  
24 the CS zoning district. Design Enhancement Exceptions are requested to reduce the  
25 required side yard and front yard setbacks and exceed the allowable encroachment into  
26 the side yard daylight plane. A variance is requested to reduce the amount of usable  
27 common open space. Environmental Assessment: An Initial Study has been prepared  
28 and a Mitigated Negative Declaration is proposed in accordance with CEQA guidelines.  
29 Zone District: CS.

30  
31 Mr. Chris Riordan, Planner: Yes, thank you. Good evening Chair Burt and members of the  
32 Commission. The project before you this evening is located at 2825 and 2865 El Camino Real.  
33 It is approximately a 22,000 square foot, three story, mixed use project with ground floor  
34 commercial, second story office and third floor residential. The project does include a request  
35 for a Design Enhancement Exceptions and Variances. The Director could approve these  
36 exceptions and variances. However, it is standard Staff practice to defer all associated  
37 applications to the City Council when a discretionary project would require final review by the  
38 Council.

39  
40 The project is subject to the South El Camino Real Design Guidelines. These guidelines provide  
41 design direction for a range of site planning and building designs including façades, setbacks,  
42 overall building form, parking location and signage. As noted in the Staff Report some of the  
43 guidelines are not congruent with existing development standards of the CS zone district. The  
44 Zoning Ordinance Update would address these inconsistencies in the updated ordinance. This  
45 applicant is applying for DEEs and a variance to meet the guidelines as follows: reducing the  
46 required 25 foot arterial street front setback from 25 feet to four feet; reducing the left side

1 setback of 10 feet for the first story and 17.5 feet for the second and third stories to zero feet for  
2 all stories; increasing the maximum allowable daylight plane encroachment for the left side of  
3 the building and reducing the required amount of usable open space from 30 percent to 25  
4 percent. The project would require 41 off-street parking spaces and 38 are being provided. The  
5 applicant is requesting a reduction in the number of required parking spaces due to the mix of the  
6 proposed uses on the site. The Director of Planning and Community Environment has the  
7 discretion to reduce the number of required parking spaces by 20 percent on any site with a Joint  
8 Use Parking Facility exceeding 30 spaces. Parking for the residential uses would be in a carport  
9 located in the parking lot at the rear of the building as shown on sheet 17 of the development  
10 plans but is not shown on other site plans. Staff will require that all site plans be consistent prior  
11 to ARB review of the project.  
12

13 Access to the parking lot will be from a new driveway on El Camino Real. As an all-new project  
14 on El Camino Real Caltrans approval is required is required before improvements are made in  
15 the right-of-way. Condition number 28 of Attachment A mentions this requirement. The  
16 parking lot would include some permeable pavers that will serve two functions. They will assist  
17 in breaking up the expanse of asphalt as well as help reduce the offsite drainage. The site plan  
18 contained in the plan set does indicate more permeable pavers than presently proposed. The site  
19 plan on page four of the plan set is the current proposal. A valley gutter located in the parking  
20 lot will help direct drainage into a bioswail at the rear of the property.  
21

22 Proposed utilities will be screened. The site plan indicates that a pad-mounted transformer will  
23 be located behind the building. All other electrical services will be undergrounded. The  
24 backflow preventer is proposed to be located behind the trash enclosure. It will be hidden from  
25 direct view but will be visible at an oblique angle. ARB will determine if this screening is  
26 adequate.  
27

28 Before I conclude I would like to make some clarifications to the Staff Report. The project  
29 description included in the Staff Report as Attachment C was prepared by the applicant. The  
30 project background, Attachment F, was prepared by Staff. Mitigation measures listed in bold on  
31 page 21 of the Mitigated Negative Declaration were mis-numbered there are only three  
32 mitigation measures and not five. Page 24 of the Report does include the correct sequencing.  
33 The copy of the Draft Record of Land Use Action, Attachment A of the Staff Report, wasn't  
34 complete. It was an early version of the document that was included with the Report in error. A  
35 corrected copy was emailed to you last evening and is also at places. It contains the  
36 Architectural Review findings, the DEE findings and the Variance findings. The Comprehensive  
37 Plan Table included as Attachment D has an incomplete statement. Policy L-78 should read,  
38 "Encourage development that creatively integrates parking into the project by providing for  
39 shared use of parking areas." In conclusion, Staff recommends that the Planning and  
40 Transportation Commission recommend the City Council approve the requested Mitigated  
41 Negative Declaration, Site and Design Review application, DEE exceptions and the Variance  
42 based upon the findings and conditions of approval contained in the Draft Record of Land Use  
43 Action.  
44

1 Chair Burt: Just before we continue I want to make sure that all the members have the copy of  
2 the complete Record of Land Use Action that was at our places and emailed. Everyone has it?  
3 Great, thank you.

4  
5 Ms. Amy French, Current Planning Manager: I just want to add that I have some responses for  
6 lighting and parking and I can address requests on the El Camino Real Guidelines that may come  
7 up. I will just hold off until your questions if that works for you and let the applicant present.

8  
9 Chair Burt: Great. Lee.

10  
11 Commissioner Lippert: I need to state for the record that I have reviewed a similar project at the  
12 same site while I was a member of the Architectural Review Board and have gone over my  
13 records, the previous Staff Report, and it has been determined that the project is significantly  
14 different enough that I don't have to step down from this action.

15  
16 Chair Burt: Okay. Do Commissioners have any questions of Staff before hearing from the  
17 applicant? So at this time we would like to give the applicant their initial opportunity to speak  
18 up to 15 minutes. Then at the end of our hearing if there are responses you have an additional up  
19 to three minutes. Mr. Baer.

20  
21 Mr. Jim Baer, Applicant: Thank you Chair Burt and Commissioners. Quickly on the  
22 background of this property it is two parcels, one on which is a vacant parking lot, 2825 El  
23 Camino and adjacent to that is the Old Pro and a Quonset hut. In 2000 an application went  
24 through Site and Design Review and was approved by City Council with some DEE findings at  
25 that time for a two story building on the vacant lot only with three residential units on top. It was  
26 a challenge. It was a lot to put on one site. We have worked since 1999 with Old Pro and what I  
27 mean by work with is we acquired 361 California for a group called OPI Partners which was a  
28 group of Old Pro supporters to build a building for them that then was one that they chose not to  
29 occupy, that a new building wouldn't be suitable for their image. We then helped them with the  
30 building where they are now located at 541-545 Ramona which has a complete application for an  
31 historic renovation of that beautiful building on Ramona to cut through what was an optical store  
32 with where the Old Pro is now revealing much of the interior not unlike the Blue Chalk Café  
33 kind of space. We have really been diligent in trying to make sure that that good user was  
34 preserved.

35  
36 One of the challenges they faced was they not only couldn't adequately park a full service  
37 restaurant and bar in that location and have created problems for the neighbors over the years but  
38 you cannot seismic upgrade a Quonset hut anymore than you can a bicycle wheel. It really is  
39 structurally not a device that lends itself to bring to current code as you intensify use, as Old Pro  
40 would have requested. So following that approval in 2000 and in the same time period a Ken  
41 Hayes project that is now the Starbuck's building near El Camino Way on El Camino was  
42 occupied went through a similar how do you add residential units through Design Enhancement  
43 Exceptions? And, the dot.com bust really hit the opportunity for small parcels on El Camino to  
44 go through what we think is a natural progression of redevelopment of old and obsolete parcels  
45 not unlike this property.

1 Last year you saw, reviewed and recommended approval to City Council for two projects on  
2 Park avenue, 1795 and 1805 El Camino, two story buildings with two residential units on top and  
3 probably those went to City Council with no members of the public speaking and received 9-0  
4 approvals. The same issues that were discussed by Commission at length apply here. I think  
5 policy was established through the discussion, not precedent, but policy indication when the  
6 DEEs and Variances were discussed for those other two projects. They were these, ARB is not  
7 timid in saying we will grant and recommend all DEEs necessary to bring you into compliance  
8 with the El Camino Real Design Guidelines. Not only that, we will not approve you if you have  
9 substantial deviation from the El Camino Real Design Guidelines. Where that hits most for a  
10 project is they define a 12-foot setback from face of curb. So in a first preliminary review of this  
11 building we had the building a little bit further setback from El Camino and the residential units  
12 deeply setback. The answer was no, this is a boulevard, we want to bring our buildings forward.  
13 We want to elongate them along El Camino so you want longer narrower buildings so that El  
14 Camino really has a scale to create an edge for El Camino. So this project in its preliminary  
15 Architectural Review Board was asked to get rid of your setbacks, put it up against the north  
16 property line, stretch it out and this is what we have as our vision for the redevelopment of El  
17 Camino. We have the good fortune to be able to work with two adjacent properties. The  
18 Stanford Cleaners on Pepper and what has been Polly & Jake's owned by the same family that  
19 owned Polly & Jake's now occupied by ATT&T. We have been working with the Lee family  
20 who own the Stanford Cleaners property and with the representatives of the AT&T building as  
21 well as an option holder there to see how over some period of time that front could be continued  
22 in an appropriate way. So the first issue is that ARB really are asking support of applicant, Staff  
23 and therefore for Site and Design Review Commission and Council to make real the El Camino  
24 Real Design Guidelines as this project now does.

25  
26 The two issues that came up for Planning Commission at the Park avenue location for both  
27 properties was open space and shared parking. For open space the answer that may be not  
28 entirely satisfactory but requires support from Commission on this distinction those who will buy  
29 units in this kind of a location aren't in need of a tot lot, these are expensive transit oriented  
30 locations. By that I mean the buyers of these kinds of units are employed near that location, are  
31 not raising school-age children on the Page Mill/El Camino corridor so the open space while we  
32 have 25 percent here it is a soft 25 percent. You have to have landscaping and edges against a  
33 residential neighbor. The area in front of the bike lockers counts as open space. We don't  
34 suggest that this is recreational open space and the Planning Commission and City Council  
35 accepted that the Variance for open space was appropriate in this kind of a location. We don't  
36 think that creates a danger for larger parcels that are truly multiple family. The second issue was  
37 when is it appropriate to apply the opportunity to waive a portion of the parking requirement. It  
38 requires 30 spaces or more. The Director has the ability to recommend a reduction of 20 percent.  
39 We all agree that that doesn't make sense that if you add two residential units you can park less  
40 than the office and retail and building alone would be required to park. We would suggest that  
41 that not be something that we would put forward or request or that we would expect to be  
42 approved. The principle being that the waiver is because residential users in this location, and  
43 there is a three-car requirement for two units, when you have three units it goes to four-plus  
44 guests but for two units it is three, that it does make sense that in this kind of a location the  
45 residences will be using their parking spaces in hours where the users of the two story  
46 commercial building, office and retail, will not. The reality is to surface park a building you

1 wouldn't be able to create residential units on locations like these. If you look at our site plan  
2 there is not another way to get a surface parking space and the loss would be the loss of  
3 residential units not reduction of the commercial units on these El Camino locations. The third is  
4 the Retail Conversion Ordinance protects the 2,000-plus square feet occupied by the Old Pro  
5 must be retained and we have done that. We think this is a good project. We expect that we will  
6 have a rigorous second review by Architectural Review Board. I am glad to answer any  
7 questions and do think that this...and because of the concern about housing and impact on  
8 budget and school-age population this really is a good kind of product for El Camino because it  
9 is one that is low friction on residential traffic and unlikely to yield a school-age population. I  
10 would expect you will see quite a number of these for small parcels where large parcels can't be  
11 assembled that this is the kind of product that we hope would be encouraged along El Camino  
12 and that this is a good representative of that. I am glad to answer any questions.  
13

14 Chair Burt: Thank you. Do Commissioners have questions at this time? Phyllis.

15  
16 Commissioner Cassel: Are you going to have a color board or a materials board?  
17

18 Mr. Baer: I am sure we do. We do have one and I am sorry whether I didn't bring it or it was an  
19 oversight.  
20

21 Chair Burt: Okay, while they are looking for that are there other questions by Commissioners?  
22 Amy also had some supplemental information. Should we go ahead and have Amy share that  
23 with us and then hit our questions?  
24

25 Ms. French: Okay, just a few things. As Jim noted both the ARB and the prelim review of this  
26 and the applicant's submittal which began as a prelim with the mix of uses you see today as what  
27 they are proposing the South El Camino Real Guidelines have played significantly into the kinds  
28 of discussions that have taken place. For this corner, Page Mill and El Camino Real, it is a  
29 prominent corner we are supposed to look towards anchoring the intersection, a lot of windows,  
30 pedestrian features, seating and planters. It is a boulevard. The buzzwords in the El Camino  
31 Real Guidelines are substantial in character and scale, dignified in character, strong presence and  
32 a street edge. So these are the goals that we are trying to reach with development near this very  
33 prominent corner.  
34

35 With regards to lighting there were some questions about that. You will notice in the  
36 environmental document it was a discussion point and a mitigation measure to address parking  
37 lot lighting and interior lighting. It did note that timing and shading devices would be required  
38 with tenant improvements. The initial study also references conditions of approval for interior  
39 lighting and shading systems. This has been what we have been doing for a lot these mixed use,  
40 I can think of four or five mixed-use projects along El Camino where we have begun doing this  
41 as a standard condition basically. It is helpful because often times we see shell developments  
42 and later on they come in with tenant improvement and then Staff is right there with these  
43 conditions saying this is what you agreed to, even though you are the tenant we still need to see  
44 some shading devices and catch it. Another way of doing it is to have them show the mitigation  
45 and plans going to the ARB with this project. So trying to show the solution to shielding the  
46 interior second and third floor lighting to prevent the visibility of light sources to the residential

1 neighbors to the east or north as it were and asking for photometric plans and making sure that  
2 the trees that are planted along and the buffer area are substantial enough to provide some  
3 mitigation for the lighting. So suffice it to say there is a mitigation measure that addresses  
4 lighting, we also address this with standard conditions of approval.

5  
6 Regarding the parking a question has been raised by a Commissioner about precedent and are we  
7 bound by precedent? For instance 2825 the project that was here before did have a reduction. It  
8 was a very different project. They incorporated eight bike lockers to take the place of one  
9 parking space. They are not doing that in this case it is much less of a percentage, only nine  
10 percent where they could ask for 20 percent. But bottom line is we do this on a case-by-case  
11 basis looking at a project as it come forward, looking at the mix of uses. So there isn't a  
12 precedent per se. It is a case-by-case situation but it definitely has been requested in the mixed-  
13 use projects along El Camino. I think that brings us to material boards.

14  
15 Chair Burt: Okay, who would like to ask questions first? Paula? Don?

16  
17 Mr. Don Larkin, Senior Deputy City Attorney: We probably just want to state for the record that  
18 there are no members of the public here to speak.

19  
20 Chair Burt: Okay. We have no members of the public who have requested to speak on this  
21 subject. So at this time we will proceed with questions from Commissioners. Paula and then  
22 Lee.

23  
24 Commissioner Sandas: My needle is stuck just a little bit. Mr. Baer when you brought up the  
25 topic of a reduced amount of open space because the residential units, there are two, and they  
26 would most likely not be something that families would live in. My needle is stuck there  
27 because actually my house, we are a family of four, and my house is about that size or smaller.  
28 So I am thinking to myself that a family of four could easily live in one of those three bedroom  
29 units. So by necessarily reducing the size of the open space because we probably won't have  
30 families living there aren't we kind of keeping families out of there? Is that okay?

31  
32 Chair Burt: So you are directing that question to the applicant? Okay. Mr. Baer, would you like  
33 to take a stab at that?

34  
35 Mr. Baer: It is not the size of the units clearly these are large enough to have young and high  
36 school age size children. They are generous units. It is more that the sense is that at that location  
37 that is not where you would choose to ...given that these will also not be inexpensive units your  
38 choice for a unit of the same cost if you had young children would probably find you elsewhere  
39 in Palo Alto even in North Palo Alto if you were wanting to provide play area for your children.  
40 Two tradeoffs and we will ask for Planning Commission guidance on this although express a  
41 preference. The Staff are pretty rigorous when these kinds of tight sites come up to ask that we  
42 look carefully at the size of balcony space. So we exceed the minimums that are required for  
43 private open space on pretty much all of these mixed use projects, on the two previous and this  
44 one as well. So here is the kind of tradeoff an owner/applicant wouldn't want to do is to lose two  
45 parking spaces and create more greenery. Again, I would say an applicant wouldn't want to do  
46 that because the vitality of your building not just for the residential residences but that you are

1 adequately parked in that location for the use – a nice part about the parking metric is in these  
2 kinds of locations tenants won't rent the building if they think their parking demand is greater.  
3 So to reduce the number of parking to create an open reserve or a landscape reserve in order to  
4 create more open space has this problem with it in addition to leasability to a good tenant. It is  
5 really still not going to be recreational space on this site in that location. It is going to be loud. It  
6 is going to be with high vehicular traffic. So our sense is this is the right mix and that this is the  
7 kind of product that wouldn't encourage young age children it wouldn't preclude older children.  
8 Of course we have the whole policy debate about whether we want to increase the school-age  
9 population and if so where in the City. I hope that answers with what our choices would be and  
10 what Staff's choices would be. Do we come back in with 30 percent by reducing parking which  
11 the Commission and Council and Staff can recommend as a landscape reserve in a location like  
12 this and we come out and hope Staff does as well and Commission and Council do as well that in  
13 these kinds of sites that wouldn't be appropriate. As Amy indicated in terms of precedent value  
14 near Barron Park you may go exactly the other direction and say no we would insist on meeting  
15 the open space requirement because a buyer of the residential property in that location might  
16 have a different choice by proximity to schools and other children.

17  
18 Commissioner Sandas: Can I hear from the Staff on this same issue, briefly?

19  
20 Ms. French: Well of course this is not the first mixed use project on El Camino that has had a  
21 shortage of open space that is usable. Often there is a tradeoff. We see as a common practice  
22 more space being provided at the balcony or in the private realm rather than at the ground floor  
23 or at grade because generally those spaces go kind of unused in a setting like this. Whereas the  
24 open space in the private balconies if they are oriented correctly to the sun, etc. and with privacy  
25 those can be more beneficial to upper floor units.

26  
27 Mr. Baer: Ken Hayes wasn't here to whisper in my ear and he is beyond being at the top of  
28 anyone's game in terms of understanding land use. He was the architect for both 1795 and 1805  
29 El Camino. While this same debate was going on with more vigor in that location because it was  
30 the first time you had seen that in a while, he whispered to me and we didn't have a further  
31 chance to answer the question and I just about forgot it. The open space percentage of parcel  
32 size would be if you were building the maximum density. So let's say that in a 22,500-foot  
33 parcel we could build seven units. Those seven units would command 30 percent of the 25,000-  
34 foot lot or 7,500 feet. If two units are providing 7,000 square feet, 3,500 feet each, his point was  
35 there should also be a scale that says did you provide enough adequate open space as a  
36 percentage of the site or in relationship to the number of families that would be using the open  
37 space? I am glad to have been able to catch my breath to say that because it is a really smart  
38 distinction he makes that on a per unit basis this greatly exceeds the open space that would be  
39 available if we were able to develop more. If we weren't building the commercial and we were  
40 building seven or eight residential units only boy the open space would really come into play but  
41 only be a few hundred feet more than what we have offered.

42  
43 Chair Burt: Is it Staff's intention that when we receive the commercial section of the Zoning  
44 Ordinance Update and we would at that time begin to address the El Camino Guidelines and  
45 incorporating them into the zoning code that there may be recommendations made distinguishing  
46 how much public open space is appropriate in certain locations versus others? It may not be

1 something that would be uniform across the City on even comparable mixtures of development.  
2 It may be location dependent somewhat.

3  
4 Mr. Steve Emslie, Planning Director: Yes, that is the intent. In fact we have done that in a  
5 couple of locations when we have done some more specific planning like the SOFA II plan had  
6 that flexibility. So that is something that we will be looking at.

7  
8 Chair Burt: Thank you. Lee.

9  
10 Commissioner Lippert: I was going to follow up. My line of questioning is the same thing,  
11 which is that first of all in the D&E Committee meeting, we have looked at open space and open  
12 space does compete with parking and that's a real issue. With regard to this we are on the cusp  
13 of what we are trying to create as a pedestrian transit development zone. Wouldn't it be highly  
14 appropriate to have an even larger parking reduction because of the fact that we are right on the  
15 cusp or right on the edge of that? This Report allows for a reduction up to 20 percent of the  
16 parking spaces why not just say to the applicant here put it in landscape reserve and if you need  
17 it it's available but you have to landscape it from day one?

18  
19 Ms. French: Well certainly the decision-makers as they look at this can recommend that. We  
20 have never been in a position where we forced somebody to do landscape reserve. It is always  
21 something that has been requested of us to be resolved later if they do need those spaces. But if  
22 the applicant is interested and the decision-makers are so inclined I don't see why not.

23  
24 Mr. Baer: Here is the risk in some of these kinds of locations. We now have a protect retail  
25 policy and this is an absolutely appropriate location where there will be the need for some retail  
26 service in this location. What you don't want to do is Chop Keenan's language is always what  
27 we want is retailers without customers because if you have retailers that are successful...AT&T  
28 so exceeds the parking in that little lot. So we have to balance the open space where the primary  
29 use is not residential and the residential uses as part of a policy encouraging this is a good  
30 location for employment based housing choice you wouldn't want to have three more spaces in  
31 open space reserve to create open space for the residences and then limit the success of your  
32 retailer. In this location, again I really get that bigger parcels a block east or three blocks south  
33 that you have a really different dynamic. Staff will certainly with this kind of a debate are going  
34 to make it appropriately painful for applicant to balance these issues each time they come  
35 forward with a project.

36  
37 Commissioner Lippert: If that is the case maybe the whole idea of having additional residential  
38 is a bit forced here. I know we like to encourage it but what I hear from you is well, you know,  
39 maybe a family but not with kids but maybe with older kids. Older kids start out as younger kids  
40 and younger kids need play space. It is right on the edge of Pepper Avenue which is a residential  
41 neighborhood and we are encouraging this pedestrian transit oriented overlay district to  
42 encourage more housing why not include the amenities of housing? Or say, well, maybe this  
43 isn't the right place for housing?

44  
45 Mr. Baer: Since we don't have another item on the agenda if you don't mind this is a wonderful  
46 debate and it is one that really does formulate for Staff and an applicant and other applicants how

1 this discussion unfolds. The Park avenue location, me bristling a little bit as the open space  
2 discussion continues, which is absolutely right. I get the importance that we want to create really  
3 livable spaces where we are inviting people to live and choose to be in Palo Alto. We want them  
4 to be comfortable in their environment. There my comment was you have 300 acres right across  
5 the street that are the Stanford Arboretum. So are they going to use an extra 400 feet in the  
6 doctor's parking lot or are they going to take their walk and run and dogs across the street? By  
7 circumstance we have the six-acre playing fields that are a half-block away.

8  
9 Now, let me come back to another one. Lee, you spoke at the City Council hearing on October  
10 11 and I was proud of your speech-making there when you said how can you put aside 30 years  
11 of Comprehensive Plan policy that we encourage housing in every zone? The Council without  
12 giving Planning Commission the opportunity to debate it and define what would be appropriate  
13 conditions to impose on housing legislated that in the LM zones it would conditional and in the  
14 GM zones it would be prohibited. Your comment was, this is such an important policy change  
15 we need to bring this back to Planning Commission. I don't mean to be cute, I mean to be  
16 admiring of that policy statement that you made and a lot of us feel strongly about. So to look at  
17 this and say here we are a block away from 12 million square feet of high productive, high  
18 income based employment that what we do want to encourage is that –you don't want to  
19 discourage the two units and you don't want to discourage the opportunity for successful retail  
20 where this really is a jobs/housing inversion model in a very little way but the people that choose  
21 to buy these units aren't getting on the train to go to San Francisco or Sunnyvale. They are  
22 buying these units to work in the Research Park or at Stanford. That was maybe a little jumbly  
23 but we are all sophisticated in this debate I know you can pick the pieces of it you think are  
24 compelling and the ones that are soft.

25  
26 I think we should encourage housing along this part of El Camino without full open space and  
27 with as full parking as can be accommodated on the site so we create the opportunity for  
28 successful retail.

29  
30 Chair Burt: Thank you, Mr. Baer. Just so that we keep a proper sense of order throughout the  
31 rest of the meeting even though we only have one person speaking from the public we still want  
32 to make sure that you are called upon to speak before going forward. It is easy for us to slip into  
33 informality just because of who is here tonight. Who would like to go next? Phyllis?

34  
35 Commissioner Cassel: I don't have any questions. The ones I had have been answered. I am  
36 ready for discussion.

37  
38 Chair Burt: Okay. Dan.

39  
40 Commissioner Garber: For the applicant, if I have a family with kids there is nothing that keeps  
41 me from purchasing one of the units in this project is there? A nod is fine.

42  
43 A question for the Staff regarding the El Camino Guidelines. Is there anything in the Guidelines  
44 that defines use or are they primarily architectural?

45  
46 Ms. French: Primarily architectural urban design.

1  
2 Commissioner Garber: One more for the applicant. You had noted that the amount of retail that  
3 you included in the project was defined by the amount of carryover from the Old Pro that was  
4 there. I am just curious as to how you allocated the division between retail and the office space  
5 that is in there. How did you arrive at that split?  
6

7 Mr. Baer: Old Pro is in a building that is a little under 4,000 feet with about 2,400 feet or 2,000  
8 feet that are occupied as restaurant and bar. The record on this is really good because there were  
9 enforcement actions because they without building permits expanded into what was classified as  
10 warehouse/storage. So the Fire Department and the Planning Department have a good record on  
11 saying you have 2,000 feet of retail and you can store furniture, you can store kegs but you can't  
12 store bodies who are buying meals. So we have an artificial demarcation of 2,000/2,400 feet  
13 split parallel with El Camino. If an appropriate retail user came and wanted the whole first floor  
14 we would be open to that. They would look at what is the parking available to them about  
15 whether that was a good choice or not and so would we. That 4,000-foot restaurant would  
16 destroy parking ability in that site. Some other types of 4,000-foot retailers would be just right  
17 with that high parking and traffic demand. For now, we haven't started a leasing effort. There is  
18 a high possibility that there will be something greater than 2,000 feet in other than office use on  
19 the ground floor.  
20

21 Commissioner Garber: For the Staff a quick follow up. How do you, and forgive me for not  
22 knowing the answer already but that is why I am asking you. How do you police the various  
23 eventual leases that go in to know to recalculate the parking calculation, etc.? How do you get  
24 informed of that? Is that simply through the permitting process?  
25

26 Ms. French: If this were a PC and we were nailing them down to exactly this mix of office and  
27 retail then they would have to do some kind of an amendment regarding the uses. With a  
28 standard development that is not a PC there is some flexibility there to adjust the percentages of  
29 those.  
30

31 Commissioner Garber: Is the applicant responsible for coming up with the calculation and  
32 determine whether they have the right number of parking spaces?  
33

34 Ms. French: Yes in combination with Staff. We would look at their proposal and determine if  
35 there is a loss of parking what the adjustment and again the Director could determine that there  
36 could be a further adjustment up to 20 percent total if necessary.  
37

38 Commissioner Garber: But you would be constrained by how much. I mean you have a  
39 maximum of what is there now. So in a circumstance where the applicant would need to have  
40 more parking the Planning Department would have to catch that somewhere.  
41

42 Ms. French: Yes, either the applicant would figure it out and come forward with that or when  
43 they come in the Staff would need to do a little research and figure out what the change of use is.  
44 We have a little flexibility in our code when there is a change of use. But again the flexibility  
45 includes the ability for the Director to adjust so that you basically say it is okay to not have  
46 enough parking up to a 20 percent reduction.

1  
2 Commissioner Garber: Thank you.

3  
4 Chair Burt: Karen, you had a follow up on that?

5  
6 Vice-Chair Holman: Yes, I think this is for Staff. So the Old Pro the restaurant part was 2,000  
7 square feet and then they had some storage that I presume was for the restaurant. So is what's  
8 used to calculate the amount of retail that is being displaced the 2,000 square feet or the 4,000  
9 square feet since I presume the storage is part of the retail function? I don't know how it is  
10 calculated exactly.

11  
12 Mr. Riordan: The 2,000 square feet of the Old Pro retail space is the space that the applicant  
13 referred to as the retail preservation that they are retaining. It is just the retail or the restaurant  
14 space.

15  
16 Vice-Chair Holman: So in calculating what serves as retail we only calculate what is the sales  
17 space, if you will, for retail but not the support storage? I think the applicant wants to respond to  
18 that too but I would like to know what Staff has to say about it too.

19  
20 Mr. Riordan: Well, the applicant correctly said it was warehousing space for the restaurant. So  
21 actually 2,000 square feet was reserved for the restaurant proper but there was extra warehouse  
22 space that they had used just for that storage for the restaurant. It goes back down to, as the  
23 applicant said, about the building being nonconforming and expanding the restaurant. So they  
24 worked out some kind of code enforcement issue where as long as they used it just for the  
25 warehouse for the restaurant then they could maintain the 2,000 square feet of the restaurant  
26 space.

27  
28 Vice-Chair Holman: So the reason the 2,000 square feet is being used as retail is because the  
29 other was not actually legal and it was just kind of a worked out situation. I am just trying to get  
30 clarity on this.

31  
32 Mr. Riordan: It wasn't defined as retail. It was defined as warehouse. So the applicant in this  
33 current proposal was maintaining that 2,000 square feet for this project.

34  
35 Vice-Chair Holman: Is that typical because all restaurants have to have a certain amount of  
36 storage space?

37  
38 Mr. Emslie: That amount of storage space is not typical. This was a solution that was worked  
39 out to resolve a code enforcement. I have been in there, I have seen that area is physically  
40 walled off from the rest of the restaurant and that amount of storage space is not typical for retail.  
41 It would be much smaller than that to maintain back of the house supplies for a restaurant or any  
42 other retail space.

43  
44 Vice-Chair Holman: But we are not counting any warehouse space towards the retail for this  
45 particular?  
46

1 Mr. Emslie: No, because they essentially expanded the restaurant illegally and the solution we  
2 worked out was to have them retract that and that the only thing they could use it for was a low  
3 intensity use such as storage. When I saw that area it was largely not utilized while there may  
4 have been some kegs and extra chairs stored in there it wasn't necessary for them to support the  
5 restaurant.

6  
7 Vice-Chair Holman: It seems like Mr. Baer is chomping at the bit to respond to this.

8  
9 Chair Burt: Jim, go ahead.

10  
11 Mr. Baer: For years the Old Pro did not use the back warehouse space. Without a building  
12 permit they expanded, ancillary uses is what the zoning code calls them, ancillary to the  
13 restaurant use that included some storage of chairs but also some seating. Son of a gun if our  
14 1999 application for the building we were doing at 2825 didn't stimulate appropriate Staff  
15 inspection of the facility and as well as a couple of neighbors saying what's going on? It really  
16 created a terrible circumstance for Old Pro not undeservedly but the Fire Department came in  
17 and made them wall off, there is no seating allowed in that back area. The most important  
18 answer to the question I think you are asking is if you had a 2,000 foot dining area for restaurant  
19 and 2,000 feet of locker rooms, showers, employee restrooms and cook line is the restaurant  
20 2,000 feet that you have to preserve or the whole building? It is the whole space. So Mike's on  
21 Middlefield can't just count its seating area and say that is what is being preserved by the  
22 ordinance it is the whole facility. This one really did have that extraordinary record that it was  
23 leased to a separate operator as warehouse. Its use permits were always as warehouse and these  
24 guys snuck in. It was a problem because when you exceed 49 seats you also have a building  
25 code, fire code, change in occupancy. So this one really has a papered record.

26  
27 If I can also answer Dan's question. When we submit for building permits Staff has to review  
28 that building permit and that triggers your parking compliance. There is no sneaking in our good  
29 database of how you monitor building permit issuance. So we could not put a restaurant in this  
30 location. It would not be able to park adequately not a full service restaurant. So the ability to  
31 create a parking nightmare doesn't exist accidentally. It would have to be a serious cheat to get  
32 by Staff review of a building permit.

33  
34 Vice-Chair Holman: To finish up on that the applicant said that they have not started looking yet  
35 for tenants so there are a number of exceptions for a variety of reasons being asked for for this  
36 project. Does the Commission have any leeway in requiring, pick a number, 4,000 square feet of  
37 retail and less non-retail of the commercial space? Do we have any leeway in that? A restaurant  
38 wouldn't work obviously because of parking as they said.

39  
40 Mr. Larkin: They would have to comply with the retail protection but that is probably the only  
41 condition that we can put on this project. To condition the Variance there would have to be a  
42 nexus between the Variance and the condition that we are putting on and I can't think of any  
43 nexus between the Variances that are being requested and a condition of more retail space.

44  
45 Chair Burt: I have Dan and then Lee.

1 Commissioner Garber: Are there performance criteria that are active in this site in this particular  
2 zone? The circumstance that I am thinking about is the mitigation that talks about light.  
3 Actually the project has been very careful to be considerate to the adjacent R-1 property. But in  
4 a circumstance say where there is illumination at night of say signage on the wall that is in that  
5 back portion the elements of that light certainly would not be seen by the R-1 property, however,  
6 it would be illuminating the side of the building which would then create a light source. Is that  
7 an issue?  
8

9 Ms. French: Again, with the mitigation measure referring to that it doesn't specifically mention  
10 glare bouncing off the wall but it certainly is a part of what the intent is here to have mitigation  
11 and even when the tenants come in and there is signage, etc. The other thing is just to answer  
12 directly your question about performance criteria. In the code, Chapter 18.64 applies to  
13 commercial sites that are within 150 feet of residential. So we do need to follow those guidelines  
14 in addition to the El Camino Guidelines, which also have performance criteria for lighting and  
15 noise and this other stuff. So we are bound by a couple of documents as well as the mitigation  
16 measure and conditions that we are proposing.  
17

18 Commissioner Garber: Thanks.  
19

20 Chair Burt: Lee.  
21

22 Commissioner Lippert: I just wanted to go back to the issue of the parking. Did you look at all  
23 at a traffic management demand program similar to what the Research Park has?  
24

25 Mr. Baer: We would be glad to introduce one if that is made condition of approval. We have  
26 done them for several other projects and they are a smart source of information for whoever  
27 occupies as well as reporting to Staff.  
28

29 Commissioner Lippert: Staff, would that be an appropriate way for them to reduce parking?  
30

31 Mr. Emslie: Very much so. We would support adding a TDM condition in this approval.  
32

33 Commissioner Lippert: Then the second question I wanted to just make a comment with regard  
34 to Commissioner Holman's question. I believe there is a nexus and the nexus would be that  
35 retail versus office the demand of parking and because in this case they can't make compliance  
36 with the amount of open space we have all three of those competing. So we would want to find  
37 the right balance of parking, office and retail in order to be able to bring it closer to complying  
38 with the parking requirements and open space.  
39

40 Chair Burt: Paula.  
41

42 Commissioner Sandas: Thanks. I have two questions for Staff. The first one is about the trees.  
43 I am glad to see that there was the request that the trees be planted 22 to 33 feet and that the soil  
44 is going to be amended properly and deeply enough, etc., etc. I just am guessing and want to  
45 hear the answer that these are going to be London Plains following the Street Tree Plan on El  
46 Camino. Yes, good.

1  
2 The second question is just another thing that is bothering me. It is not anything conditional. It  
3 is a digressive kind of question. Being that it is written down and it is out in the public, not that  
4 we have a lot of people here tonight, I am just wondering about Walgreen's on Middlefield  
5 Road. I believe that that was a Quonset hut that was redeveloped. Not that I want the Old Pro  
6 Quonset hut to be redeveloped that is not what I am saying. My curiosity is how was that one  
7 able to be redeveloped and the Quonset hut that houses the Old Pro not able to be redeveloped to  
8 meet the earthquake standards? Not that I am suggesting that it is.  
9

10 Chair Burt: I will take a stab. That was an old Purity store which were not quonset hut per se  
11 but were half cylindrical buildings I think built considerably different from the old World War II  
12 type quonset hut.  
13

14 Mr. Emslie: Yes, thank you, that is a good cue. It was a rainbow type roof not a quonset hut on  
15 that building which is a different structure.  
16

17 Chair Burt: I have a couple. Mr. Baer earlier you had alluded to the likelihood that the residents  
18 would be taking advantage of transit and the PTOD either working within walking distance or  
19 using transit and then subsequent to that you alluded to that the parking requirement would be  
20 reduced because they wouldn't be parking there during the day. If they are taking the train or  
21 walking to work wouldn't their cars be staying there during the day? So maybe from Mr. Baer  
22 and Staff I wanted to get an understanding of how we reconcile those two different aspects.  
23

24 Mr. Baer: It is a challenging policy quandary that affluent people even when they choose to  
25 walk to work on a sunny day and have chosen to live in a home that is near where they work  
26 because they can afford to you are right they are going to have a vehicle and where will that  
27 vehicle be? Isn't it a challenge of how we balance the communication of policy to Staff and  
28 applicants when there are these many close calls and misfires and on balance how do you  
29 approve any project. Honestly, I have to say when I am sitting here in the audience bringing  
30 forward what I think should be an absolutely uncontroversial project consistent with  
31 Comprehensive Plan in all ways that will get knocked around as it should by ARB until it  
32 presents a modernist interpretation of contemporary materials of appropriate scale that I am just  
33 astonished at whether we are a clear shot, thank you for bringing this project, make sure that you  
34 enforce the retail, if you can get retail greater than 2,000 feet without destroying the ability to  
35 park and ingress/egress on El Camino great. Thank you for bringing us two units. Thank you  
36 for building a building that in Palo Alto it is lucky if you break even or can yield a five percent  
37 return on investment. To have it move into a debate of get rid of parking, don't get rid of  
38 parking. The only reason DEEs are necessary or Variance is because we have added housing  
39 units. We should just be clear on that. Only by adding residences are we even appearing before  
40 you. So if we put it in the context rather than complicating about of course we would like to see  
41 every ground floor space to whatever depth that could be parked as retail whether they had  
42 customers or not. I know that debate. Here, just to put it in context, do you don't you want  
43 projects along El Camino of this size to add to residential units or not when they can park within  
44 standards that were established by this Planning Commission and City Council and the ordinance  
45 and in the Comprehensive Plan? That is really the question. None of us want to go through what  
46 is eventually a two-year process to get an approval for a project and have the question whether

1 we should have embarked on adding the two units. We would be deeply under construction if  
2 we hadn't tried to add the two units. I am really sorry, I guess I have been doing this so long that  
3 I feel the arrogance to say I am really confused when we think we are doing what has been asked  
4 of us historically through lots of public testimony and lots of deliberation by Planning  
5 Commission and lots of deliberation by Council to then have the issues kind of confused about  
6 whether you want the residences or not. I can add one that if this is the right policy direction, we  
7 did this at Park avenue. There are ways to do parking lifts that need single operator. You lower  
8 a parking car, drive in, you don't have to have somebody there to back the car out because you  
9 are suspended in the air. If the tolerance of policy-makers to adding residential units is keep  
10 your open space and meet your parking requirement then those devices are available to us. If  
11 that's the policy I suppose we would say we would add lifts sufficient to add the several hundred  
12 feet of deficit of open space and not ask for the waiver of parking if that is what is appropriate.  
13 But I would really say this, it is not this project, what are you telling to every applicant on El  
14 Camino because I don't know what Staff or an applicant would take away.

15  
16 Chair Burt: Mr. Baer, I think we value your insights, your input, you haven't heard our  
17 comments on the project as a whole. You are doing your job to answer questions, to present as  
18 good of a project that meets the Comprehensive Plan and the guidelines as well as possible. The  
19 Commission's job is to ask their questions. Why don't you be patient and wait until you hear our  
20 discussion before you leap to conclusions on where we are headed or mis-headed.

21  
22 Mr. Baer: Thank you for the correction. I accept that. I apologize.

23  
24 Chair Burt: Okay. Other questions from the Commission? So we can have comments briefly  
25 before entertaining a motion. Karen and then Paula.

26  
27 Vice-Chair Holman: I have just a couple of questions. A global question. We did look at a  
28 couple of projects on Park Boulevard and at the time in saying yea on those I said I felt pretty  
29 schizophrenic because we have the design guidelines, I think it is good to have this in the record  
30 it doesn't hurt, we have the El Camino Design Guidelines and we have development standards  
31 for El Camino. It is an odd situation where we haven't updated the Zoning Ordinance Update  
32 yet so we have guidelines that are superceding code. So we are looking at Design Enhancement  
33 Exceptions and those are supposed to be for minor exceptions but these are for major exceptions.  
34 So could Staff kind of edify all of us together and for the public and the public record say more  
35 about that and what is the situation we are in and why it is that we are doing this the way that we  
36 are doing it? I think that would be really helpful.

37  
38 Mr. Emslie: Just real briefly the situation exists because the state-of-the-art of urban design is  
39 reflected in the guidelines is the current and the better of the practice than what is reflected in our  
40 actually development standards. The standards are counterproductive in achieving the kind of  
41 urban design result. In Palo Alto and in most cities it is more expeditious to adopt guidelines in  
42 that the zoning standards are more cumbersome to update. So in this case we have adopted  
43 current, modern standards that achieve the proper urban design objective for El Camino. The  
44 standards will need to catch up to those. They are on schedule to be modified this year under the  
45 zoning code update and they will be brought into compliance with the zoning standards. So this  
46 problem of having to use DEEs in the future will be corrected but for the time being we urge and

1 will continue to urge the Commission through our recommendations to support the design  
2 guidelines because they are achieving the appropriate urban design result which will add  
3 enhancement to El Camino that we will not get through the implementation of the out-moded  
4 standards that the design guidelines will eventually serve to update.

5  
6 Vice-Chair Holman: Thank you, I think that is very helpful. One other question is in a couple of  
7 previous projects I can think of we have had comments that we wanted forwarded to ARB when  
8 they were doing their next review or further review of a project. Would Staff think that the best  
9 time to integrate any of those would be as a part of the motion or ask questions now about the  
10 applicability of those? What would Staff think would be the better way to pursue that?

11  
12 Mr. Emslie: I think you would want to do that as part of your discussion and eventually in the  
13 motion. I think that would probably be the most efficient way to do that. We would defer to the  
14 Chair of course.

15  
16 Chair Burt: Paula.

17  
18 Commissioner Sandas: One more strange niggling question. I am looking at the sustainability,  
19 leadership and talking about the use of sustainable features. Under the category of Mandatory or  
20 Circumstantial Components the third item is a 20 percent water use reduction. From what to  
21 what? I don't understand. We are comparing apples and oranges so what are we reducing 20  
22 percent? I am not sure who would answer that question.

23  
24 Mr. Baer: I am not able to and I don't know whether that means that we are mandatory in  
25 backflow preventers on irrigation systems, low flush toilets, those are now code some of them  
26 are Palo Alto only and some of them are CBC. We have used that same language a number of  
27 times and I don't know what it means other than we are doing our best and it is mandated.

28  
29 Chair Burt: Somehow it is referenced in the letter from the applicant. Okay. Amy.

30  
31 Ms. French: I just wanted to add that the ARB of course is looking at these a lot, LEAD  
32 checklists and it is something that they are comfortable in discussing and Jim can be prepared at  
33 that meeting to address that question if it comes up.

34  
35 Chair Burt: Annette and then Lee.

36  
37 Commissioner Bialson: I don't have any questions I would like to get on to the discussion. My  
38 comments are that maintaining a position of a policy level discussion I think this project is a  
39 good project. I think that in dealing with El Camino properties we did go through a process of  
40 determining what sort of structures we wanted there and essentially we wanted sort of urban city  
41 type, large anchoring type of projects located in spaces such as this one is to be located. I think  
42 that we should encourage this type of development. I think it will be a good anchor so to speak  
43 as further development goes on around it.

1 I do not support reducing parking because I am very aware of the impact on the residents on  
2 Pepper Avenue. Anything we do to reduce parking on this particular parcel is just going to result  
3 in a greater likelihood of overflow parking being pushed over to Pepper.  
4

5 I think the mixed use component, the idea of putting residence in addition to the retail and  
6 possible office space is something again that we should encourage. I do think that while we are a  
7 suburban city there are parts of our city that really are more urban and should be acknowledged  
8 to be such. I do feel that individuals choose the places that are best for them and their families  
9 should the families move into them. I think that what this is will be quite evident to those people  
10 who look at the project. I will be supporting this project.  
11

12 Chair Burt: Lee.  
13

14 Commissioner Lippert: Well, I see it a little bit differently than my colleague. I have looked at  
15 this project here and one of the things that I find is that over the weeks we have debated the  
16 Pedestrian Transit Oriented Development overlay and this is right on the edge if not adjacent to  
17 that gerrymandered zone. There is an incredible opportunity here for taking advantage of not  
18 only parking reduction but also people being able to commute to work via public transportation  
19 and be in their office there and not be hassled by it. America is going through a tremendous  
20 crisis right now with regard to higher energy costs and not only that emissions from automobiles.  
21 I know that this problem is going to just get worse. So because of its proximity to the California  
22 Avenue transit center and that we are beginning to look at this Pedestrian Transit Oriented  
23 Development overlay zone and we don't have it in place there are other vehicles and other tools  
24 that we have at our disposal to reduce parking. In this case I did a quick calculation and in order  
25 for them to make the open space they need to reduce it by an additional six spaces. Now  
26 unfortunately that would put them at fewer spaces than the 20 percent. I think at the very least  
27 we could encourage through a Transit Demand Management program similar to what is in the  
28 Research Park and other office buildings in proximity to reduce that parking down to at least the  
29 20 percent, maybe increase it a little bit more to 25 or 30 percent. But there is a way to get to  
30 that open space number and reduce parking and get people that are working in the office to  
31 commute by public transportation. So as I said I see this a little bit different than my colleague  
32 here. I also did a very quick calculation if we did increase retail space it would actually increase  
33 the number of vehicles there and I don't think that that's the direction that we want to go in  
34 either. So I can support this project and I would ask that we make a condition of approval that  
35 some of those spaces be put into landscape reserve meaning that they would be landscaped and  
36 used as open space until such time that the building owner or tenant needed those spaces.  
37

38 Chair Burt: If I might follow up on that and ask Staff if there were a TDM program would you  
39 envision that that would obviate the need for some of the parking that is currently designed in the  
40 project and enable some of the parking to go into landscape reserve?  
41

42 Ms. French: Certainly some of the parking could go that way. In the Research Park with these  
43 larger companies they have their own, this may sound like a departure but I hope not, there are  
44 transit coordinators, people that are really working with the employees. In a smaller project like  
45 this with possibly multiple tenants it becomes more challenging for a TDM. I know it is a good  
46 idea but the implementation of that and having City monitoring of that situation becomes a little

1 more challenging because it is a smaller project and possible several tenants rather than one large  
2 tenant.

3  
4 Mr. Emslie: The one word of caution we would give you is because there is retail and we hope a  
5 very strong retail component here that drives parking needs that unfortunately the retail is going  
6 to be auto oriented so parking is going to be a pretty key component. Really whether we require  
7 the parking or not it is really ultimately the tenants that are going to decide if they have adequate  
8 parking. We think having enough flexibility to provide the parking to attract the quality retailer  
9 there is going to be important.

10  
11 Chair Burt: Phyllis.

12  
13 Commissioner Cassel: I like this project but I have a couple of comments. One is of course  
14 these units are going to be available in a nondiscriminatory basis for all the reasons we do  
15 nondiscriminatory units. They may not attract people with children but of course they can. The  
16 open space requirement is awkward because we have a mixed-use development. We would not  
17 expect any open space for the retail or the office space and none of the space on the first floor is  
18 very usable for tenants anyway. When we do a multiple family project we expect the 30 percent  
19 because we expect some use of that space but the amount of space per unit if you divided this  
20 and say it was six units is much reduced per unit. So I think that we should go ahead with the  
21 Variance for the open space.

22  
23 If you wanted to do some kind of a TDM program and reduce parking that should be irrelevant to  
24 the open space requirement. Then if you needed the parking you need the parking and it is not  
25 going to be open space. The swail edge along the edge is not playable area it is just plants. So  
26 adding a few more plants are fun but they don't meet the requirement that we are thinking of in  
27 terms of open space for the families that are living on the top floor.

28  
29 We have talked long and hard about getting mixed use projects in and the complications that  
30 come with combining the two different zones. So I think that we should continue to have the  
31 Variance for the open space.

32  
33 I will let other people talk. There are a number of other items I basically agree with what  
34 Annette saying.

35  
36 Chair Burt: Dan.

37  
38 Commissioner Garber: I too support the project, the mixed use, and the exceptions that are being  
39 asked for. I find Commissioner Lippert's discussion about the parking compelling however I  
40 would argue this project needs as much parking as it can get because of its size and because you  
41 are immediately adjacent to the R-1 district. So the degree that we can get as much parking into  
42 the project as we can we protect that R-1 district from having overflow parking going into it. I  
43 think the opportunities to create meaningful open space in this small of a site is pretty small and I  
44 would be far more compelled to pursue it on a larger parcel or a differently located one that had a  
45 different relationship to the R-1 adjacency there. Those are my comments.

1 Chair Burt: Karen.

2  
3 Vice-Chair Holman: It is the awkwardness of the situation that we are in but I do support the  
4 project with the same schizophrenia that I had with the El Camino and Park Boulevard project  
5 and with a couple of comments if I might. On the drawing that shows the, these are comments  
6 for the ARB which hopefully will get included into the motion or at least forwarded as  
7 comments. On the retail spaces we just recently had a joint meeting with the ARB and we talked  
8 about how retail spaces that the entryways needed to be obvious. What I find in looking at this is  
9 that all of the ground floor openings are identical and while there is signage above the retail  
10 space it really doesn't call out and if the trees overgrow that it really doesn't call it out. So  
11 however that is to be accomplished if it is a different size or a space between, it could be a  
12 recessed opening or whatever but I think there needs to be better definition of the retail opening.  
13 That is one. Another one has to do with the sustainability aspect of it. I would like other  
14 Commissioners to consider this too. The operable windows are only on the third floor and I can  
15 appreciate why perhaps on the front of the building on El Camino you wouldn't want to have  
16 operable windows but certainly on the back of the building or perhaps even on the sides it might  
17 be most especially on the back though it might be very advisable to have operable windows for  
18 circulation rather than relying on again more energy to heat and cool a building when it is really  
19 not necessary given the climate we live in. So those I hope will be included as comments for the  
20 ARB to consider.

21  
22 Chair Burt: Paula.

23  
24 Commissioner Sandas: I had a series of unusual oddball questions tonight but I haven't had a  
25 chance to make my comments. I do want to say that my questions were adequately answered by  
26 Staff and the applicant this evening. I also support this project. I think one of the great things  
27 about it is that it fits in with our pending El Camino Real Design Guidelines and while the Old  
28 Pro is a quaint feature in Palo Alto I am really excited about the idea of modernizing and  
29 enhancing El Camino. I think that the project being that it is mixed use is a good way to get our  
30 toe into the Pedestrian Transit Oriented Design. So I think this helps us bring that about. It will  
31 I think help our case in working on the PTOD. Thank you very much.

32  
33 Chair Burt: Okay. I also support the project in general. First I realize that I neglected to ask  
34 Staff for their expounding on one aspect and that has to do with consistency with Comp Plan  
35 Policy L-6, which is to avoid abrupt changes in scale and density between residential and  
36 nonresidential areas. Then the Staff comment was that it is at least 75 feet away from an R-1  
37 zone. So we have a three story mixed use building within the 75 feet of what I think are one  
38 story R-1. Can Staff comment a little bit more on why they think that's adequate compatibility  
39 of scale and density?

40  
41 Ms. French: Well, certainly there are a number of ways to consider transition. That Comp Plan  
42 policy is about both scale and density so basically pushing it as far forward to El Camino as the  
43 applicant has done the conformance or consistency with the El Camino Real Guidelines certainly  
44 is one way to work at that transition. Or if you will, in this case it is a buffer to have that much  
45 separation. Then if you look at the vegetation proposed along the back that is another mitigation  
46 or buffer provided. So transitions can be accomplished in scale by stepping a building up or by

1 pushing it as far away as you can. So I would say that this does provide a transition in scale,  
2 transition in density would be the same I would say with the two units versus the single family.

3  
4 Chair Burt: Okay. Then there was quite a bit of discussion on the parking versus open space and  
5 the TDM. I think the condition of a TDM would be a right thing to do. I concur with several of  
6 my colleagues that unfortunately I think that the parking demand for this project may need the  
7 TDM to really have adequate parking with the way it is designed. For the reasons I was pointing  
8 out earlier frankly what we have a good change of having are residential cars that will be idle and  
9 consuming parking spaces during the day. We might have avoided trips, which are one of the  
10 objectives, or maybe the primary objective in the PTOD area is to reduce the car trips. So that  
11 objective may very well be met by this sort of project but the parking reduction may in reality  
12 not be achieved unless we have the TDM component added to the project, which fortunately the  
13 applicant was receptive to including.

14  
15 Another reason that I am less concerned with the open space aspect and as a number of  
16 Commissioners know this has been something that in other projects has been a significant  
17 concern for me is not only the location of this project on El Camino but in addition to the  
18 Mayfield we did a very good job I think on the Sunrise Development project. Some of the new  
19 Commissioners weren't there but we have quite a lot of public open space that was incorporated  
20 into that project and that is a very short distance away from this one. I think that in essence we  
21 have created some public parkland at the Sunrise Development location and I think that will help  
22 mitigate the lack of open space in terms of the usable open space as opposed to the visual  
23 characteristic on the site.

24  
25 One minor correction for the Staff Report I think. Commissioner Sandas had brought up that  
26 these were London Plain trees and I think in the Staff Report they are alluded to as elms. Okay, I  
27 saw something and it was the ones that are on the property that are elms. Very good.

28  
29 I will at this time be welcome to entertaining a motion. Commissioner Bialson.

30  
31 MOTION

32  
33 Commissioner Bialson: I would like to move Staff's recommendation. The Commission  
34 recommends that the City Council approve the Mitigated Negative Declaration with a finding  
35 that the project will not result in significant environmental impacts and approve the Site and  
36 Design Review application, the Design Enhancement Exceptions and Variance as requested  
37 based on findings and conditions of approval contained in the Record of Land Use Action with  
38 the addition that the applicant be required to provide TDM program and with respect to the  
39 comments made by Commissioner Holman.

40  
41 SECOND

42  
43 Commissioner Cassel: Second.

44  
45 Chair Burt: Seconded by Commissioner Cassel. Comments on your motion?  
46

1 Commissioner Bialson: I think we have discussed this. I do want to say that with regard to the  
2 comments that Karen made with regard to the design of the building both with regard to the  
3 visibility of retail and the operable windows I feel that that's something that we should leave to  
4 the architectural design professionals. I think the comments can be forwarded to the  
5 Architectural Review Board but I do not want them included in the motion.  
6

7 Chair Burt: Do you care just for the record as part of your motion to allude to compliance with  
8 the necessary findings?  
9

10 Commissioner Bialson: If you would like so, yes.  
11

12 Chair Burt: I think the City Attorney has encouraged us to make sure in the past that....  
13

14 Mr. Larkin: Where the findings are different than the findings contained in the Record of Land  
15 Use Action that is attached to the Report. Occasionally the Commission will make additional  
16 findings.  
17

18 Chair Burt: Okay, so in this case since we are finding consistency with it we don't have to allude  
19 to it. Thank you. Does the seconder wish to speak?  
20

21 Commissioner Cassel: For the purpose of sort of summarizing some comments in case someone  
22 is reading the motion or wanting to know why the reduced parking. This site is close to bus  
23 transit not just the 22 but others. It is on the edge as was alluded to earlier of the PTOD that we  
24 are working on. It is not very far from the train. It is an easy walk to the Marguerite and it is an  
25 easy walk to the California Avenue business district which should allow it to have a small  
26 reduction in its parking. The setback from the El Camino meets the ARB guidelines. Previously  
27 we have approved similar setbacks in other developments along El Camino and the sidewalk  
28 meets the 12 feet back from the edge of El Camino as per the El Camino Guidelines. The  
29 setback to what I call the northwest side along the lot line, the side that is near Oregon, is needed  
30 to meet the parking requirements that we have. That is a CS development on that side. The site  
31 has a zero setback but so won't the other site. It is likely that the site to the northwest will  
32 continue to have a driveway down that side for access to that site although that may not happen.  
33 Then the open space issue we discussed with several of us having different ideas on that but  
34 basically my view is a few extra square feet on the ground floor will not give us usable open  
35 space and that we have larger balcony space up above than we normally would have. I also have  
36 read the findings and agree with those findings as presented.  
37

38 Chair Burt: Thank you. Lee.  
39

40 Commissioner Lippert: First of all I will support the motion I appreciate my colleague including  
41 the concept of Transportation Demand Management program in there. I feel that it probably is  
42 because they are small offices and retail space that probably the best vehicle for achieving that  
43 would be through the building management company. Whoever is the owner of the building  
44 could probably be the administrator of that program. I do appreciate it being included and I think  
45 that it makes this project a very appealing project with regard to transit oriented development as  
46 well as having mixed use with housing. Thank you.

1  
2 Chair Burt: Karen.

3  
4 Vice-Chair Holman: Commissioner Bialson suggested that forwarding the comments about  
5 operable windows and making the retail space more obvious were agreeable. I wanted to make  
6 sure that that was the sense of the Commission.

7  
8 Commissioner Bialson: I do not support them myself that's why I did not want to include them  
9 in the motion. I think if you want those forwarded to the ARB as your personal observations  
10 that's fine or if you want to have other people indicate that. I believe that is not within our  
11 purview to go into those details. I maintain that we should be at a policy level when it comes to  
12 these matters and we are not the body that is best prepared or qualified to deal with such issues  
13 as operable windows or visibility for retail.

14  
15 Vice-Chair Holman: Well recently, and I think you were absent, we did review just such things  
16 as retail and whether retail was obvious or not. So I think that is trying to ensure the success of  
17 retail so I think that is a part of our purview and sustainability is an adjunct to all of our review  
18 projects especially Site and Design. Anyway, I would like to have a sense of the Commission if  
19 they want those comments forwarded or if Staff is just going to take those forward to the ARB.

20  
21 Chair Burt: I will say that I agree with Commissioner Bialson that the operable windows are  
22 probably not within our purview even though I would like to just lend as a comment that I hope  
23 that the ARB will further explore that issue. I think the prominence of retail presence is within  
24 our purview and I would support requesting that the ARB give additional attention to reviewing  
25 that aspect but I would defer to them to do that rather than incorporate it in the motion. Other  
26 than that I don't have other comments. Does anyone else wish to comment on those or other  
27 subjects? Lee.

28  
29 Commissioner Lippert: Well, I can tell you as a former member of the ARB that that is on their  
30 agenda and I know that they probably will look at those whether we forward those comments or  
31 not because that is what they have been inclined to do for the last five or six years. With regard  
32 to the street presence I happen to agree but there also happens to be standards that they will do  
33 when they do their review with the Standards of Review and look at street presence of retail.

34  
35 MOTION PASSED (7-0-0-0).

36  
37 Chair Burt: Okay. At this time I would like to restate the motion and then call the question. So  
38 basically the motion was to support the Staff recommendation and as stated in the Staff Report,  
39 and I won't read it all, with the addition of a TDM program and I think that is the essence. Okay.  
40 All those in favor? (ayes) Opposed? That passes unanimously on a seven to zero vote.

41  
42 So thank you to the applicants and to the Staff.

43  
44 We have a couple of wrap up items to discuss as a Commission before we adjourn tonight.

1 First we have an item that came up as a result of what was going to be item number two on our  
2 agenda, 850 Webster, the Channing House proposal for a PC. The question arose about what  
3 was the Commission practice regarding site visits and ex parte meetings on PCs. As I reviewed  
4 the Commission Bylaws and Procedures it had not been incorporated in there. Over the last two  
5 to three years at our Retreats we had several discussions, we had gone back and forth on this  
6 subject. At one time we had thought that a group site visit was maybe the best way to address  
7 this and then we had problems with a group site visit and retracted there. So as in discussions  
8 with Staff we realized that this may be something that we need to revisit and determine under the  
9 current Commission what is the practice that we wish to abide by. I think it is not the intention  
10 here tonight go into a full-scale discussion on it but Don would you like to make a few comments  
11 and then we can figure out how we would best proceed subsequent to this evening.  
12

13 ***Other Items:***

14  
15 **3. Discussion of Commission Practices Regarding Individual Site Visits for Planned**  
16 **Community Projects.**  
17

18 Mr. Larkin: I came in late to the discussions on this but I have been involved in some of them.  
19 When we revised our procedural rules last year there was the intention of including some or  
20 applying some of these rules for quasi-judicial hearings, the Planned Community zoning  
21 applications, which is why that is in the title. Unfortunately due to some extensive editing  
22 everything else in that section regarding PC zoning ended up being taken out.  
23

24 The way the rules currently read ex parte contacts, any gathering or submission of information  
25 outside of a required hearing that would influence a Commission Member's feelings or vote on a  
26 project is discouraged. That includes site visits, ex parte contacts of any kind. They are  
27 discouraged but not prohibited. The policy is if you have such contacts you have to disclose  
28 them.  
29

30 My interpretation of the way that we would apply these rules in a PC context is that the rules  
31 don't address those but I would still suggest that in a hearing they be disclosed because a PC  
32 application is sort of a hybrid between a quasi-judicial permit and an administrative permit and a  
33 legislative decision. So the safest bet would be to disclose those contacts and any other  
34 information that is gained outside of the hearing. So that doesn't mean that you can't go to the  
35 site and for example in this case go to Channing House and have a tour of the property that is  
36 given by the architect but you would want to disclose that at the time of the hearing.  
37

38 Chair Burt: It would be my suggestion that between now and the next time we have a Retreat  
39 and have an opportunity to visit this issue in greater detail we defer to the guidance of the City  
40 Attorney on that if that is the consensus of the Commission. I see nodding heads, generally.  
41

42 Commissioner Cassel: I agree with you, Pat, but if we want to make this more firm than just a  
43 discussion then we really need to bring it up in this format rather than at a Retreat because we  
44 can't make a decision at a Retreat.  
45

1 Mr. Larkin: My suggestion would be we didn't actually cover these items in our Retreat even  
2 though that is in our Bylaws that that's what we do at the Retreat. So my suggestion would be  
3 that once we have an opportunity we have a short study session prior to one of the regular  
4 meetings, have some discussion on changes to the rules because we have now had a chance to  
5 work with these for a little while and I know there are some issues that have come up. Then after  
6 that we could bring them back at a regular meeting.

7  
8 Chair Burt: Okay. So then if Staff would look for an opportunity to include that within an  
9 upcoming meeting. All right? Great.

10  
11 Mr. Larkin: You mean before a meeting?

12  
13 Chair Burt: In a meeting. It would be a study session with a regularly agendized meeting, is that  
14 correct?

15  
16 Mr. Larkin: Within a regular agendized meeting and we could put the meeting time a little  
17 earlier so that we have time to get all the regular business in as well.

18  
19 Chair Burt: Okay, so it would be a regular start time, open the meeting with a study session you  
20 are suggesting?

21  
22 Mr. Larkin: We could do an earlier start time so that we are not taking away from Commission  
23 business.

24  
25 Chair Burt: Okay, I see, then Dan is correct this would need to be a study session preceding a  
26 meeting. Thank you.

27  
28 Then Don you have some comments to make regarding a recent US Ninth Circuit Court of  
29 Appeals ruling regarding utility towers.

30  
31 ***APPROVAL OF MINUTES:*** None.

32  
33 ***REPORTS FROM OFFICIALS/COMMITTEES.***

34  
35 City Attorneys Office's Report on the U.S. 9<sup>th</sup> Circuit Court of Appeals ruling regarding Utility  
36 Towers.

37  
38 Mr. Larkin: I have gotten a number of questions from Commissioners on this case. Apparently  
39 the talking heads have been distributing lots of information so I wanted to clarify what the City's  
40 response is at this point to the recent that is Sprint PCS vs. The City of La Canada Flint Ridge. I  
41 don't have a site because I have the copy that was on the Ninth Circuit's website but I can get  
42 that for anybody who wants to look up the case.

43  
44 At this point the recommendation is that we follow it closely but that we not take any specific  
45 action in response to the case. I can go into why. It is a somewhat unusual case because it was  
46 brought under both state and federal grounds in a federal court. Sprint PCS prevailed on the state

1 law grounds but not on the federal grounds. That means for the issue to be raised again it would  
2 be likely be raised in state court and state court isn't bound by this Ninth Circuit decision. It is  
3 what they call persuasive but it is not binding on state courts. So the likelihood that this is  
4 setting a precedent is somewhat reduced.

5  
6 Before I get into the rest of it I will give a brief overview of what the case was. This was an  
7 application to put four telecommunication poles in the public right-of-way in the City of La  
8 Canada Flint Ridge. The city approved two of the poles but denied two other poles based on  
9 their ordinance, which required findings that the placement of the poles would not cause  
10 aesthetic problems that included views from the streetscape, views from residence and  
11 competing views of residences, a number of things that would seem reasonable to require. What  
12 the court said was under state law that aesthetics can't be a factor in deciding whether or not to  
13 approve the placement of a utility pole. This is contradictory to the case they relied on which is  
14 the Metro PCS case which I have talked to the Commission about before. It is important to note  
15 first of all that it only applies to poles in the right-of-way. Recently the Commission has looked  
16 at the placement of a pole at a church and they referred that to ARB for aesthetic reasons. That,  
17 even under this case, that is still allowable and it doesn't affect that decision it only affects the  
18 placement of facilities in the public right-of-way.

19  
20 Procedurally, the City of La Canada Flint Ridge has request either and/or an on-bank review  
21 which would be an 11 judge panel of the Ninth Circuit to review the case and/or a referral of the  
22 case to the California Supreme Court to decide the state law issues there. The California  
23 Supreme Court precedence would be binding on local state courts.

24  
25 The impact of the case if it is held up and survives the review would be that we would be further  
26 limited in our ability to regulate telecommunication facilities in the right-of-way. Then the case  
27 is very specific that there is still an opportunity to review these applications for time, place and  
28 manner restrictions. They just said that time, place and manner doesn't include aesthetics. It  
29 could include other zoning factors that we typically look at for these types of things. It actually  
30 only precludes denial of the project so it still could be referred to ARB for recommendation. We  
31 could still make requests of the telecom companies to do things that would make the telecom  
32 facilities more palatable. Again, just to clarify, it does not affect private property and the only  
33 thing that we are recommending at this point is that Staff take a close look at these applications  
34 before they get to you so that we can advise you on if there are any impacts or anything that  
35 would impact your decision. I think the case also highlights the importance of making very clear  
36 findings that are both concise and supported by the evidence that we present or you hear at the  
37 hearings.

38  
39 Chair Burt: Lee.

40  
41 Commissioner Lippert: Can height be a limitation on these? It is not an aesthetic issue but if  
42 you have height limits in an area utility poles need to be within a certain height. They can't just  
43 go on endlessly.

44  
45 Mr. Larkin: The case doesn't address that directly but I can't imagine that height limits would be  
46 something that we would be precluded from imposing.

1  
2 Commissioner Lippert: Okay. Then in a public right-of-way we generally in some districts  
3 encourage or we do have programs for undergrounding utilities. If we have undergrounded all of  
4 our utilities in a certain area could we prohibit cell towers because we require the utilities to be  
5 underground?  
6

7 Mr. Larkin: Again, that is not addressed in this case but I would hope so.  
8

9 Chair Burt: Thank you for that clarification on that issue. It is as clear as possible at this point in  
10 time.  
11

12 The next item is the Planning Director's Report on Status of Retail Action Plan.  
13

- 14 • Planning Director's Report on Status of Retail Action Plan.  
15

16 Mr. Emslie: We respectfully request that this be continued to next meeting so we can get you an  
17 advance copy of that plan so you can have questions prepared.  
18

19 Chair Burt: Great. Then we had a discussion at the pre-meeting that subsequent to the  
20 Commission's joint meeting with the City Council we would set a date for a Planning  
21 Commission hearing to review the Retail Action Plan. So that is the intention.  
22

23 ***COMMISSION MEMBER QUESTIONS, COMMENTS, AND/OR ANNOUNCEMENTS.***  
24

25 Chair Burt: The next item on Comments, as Commissioners have seen the Mayor has requested  
26 that we set a date for a next joint meeting with the City Council. Andy you want to share with us  
27 what has been determined?  
28

29 Mr. Andy Coe, Interim Deputy Director: I think the date is Monday, February 13, 2006.  
30

31 Chair Burt: So we can pencil that in on our agenda.  
32

33 Commissioner Lippert: Is there a topic.  
34

35 Chair Burt: Not yet. First I believe that this meeting is consistent with Mayor Kleinberg's stated  
36 intention to meet with each of the Boards and Commissions twice per year. So we will be  
37 having a pre-meeting, Vice-Chair Holman and myself will be meeting with the Mayor and the  
38 Vice-Mayor on February 3 to discuss the agenda. I would like to request Commissioners if they  
39 have at this point in time items that they would like to make sure that we try to agendaize as a  
40 follow up from our last meeting or other items that are important. I haven't yet reviewed our last  
41 list of proposed agenda items, what it got narrowed down to on agenda items and how that might  
42 suggest to us what we want to discuss. That would be one starting point. Then the other would  
43 be input from Commissioners. I don't know if anybody has any quick ones. Lee.  
44

45 Commissioner Lippert: Well, since the City Council took action on removing multi-family  
46 residential from the GM zone and has put a requirement of a use permit on multi-family

1 residential on the LM zone I think it would be highly appropriate to sort of gauge and engage  
2 Council on that specifically before we take action in our recommendation on the PTOD.

3  
4 Chair Burt: Does it affect the PTOD more than those other zoning districts? Either way I agree  
5 with you that we have two questions that we might want to discuss with Council in that regard.  
6 One is a process issue and the other is a substantive one and whether the Council would like us  
7 to look in any more depth at that decision that they made that my sense was that it was made  
8 because there was a sense of urgency that felt to address a problem and they may or may not be  
9 interested in the Commission revisiting it and suggesting any alternatives or modifications to  
10 what they had done.

11  
12 Before this meeting as I was reviewing the Housing Element it struck me that there were a lot of  
13 policies and programs in the Housing Element that now only less than three years after it was  
14 adopted look like they might be somewhat dated from what has been emerging as Council  
15 sentiment, directions we have been going in some aspects of the ZOU and changes that may be  
16 occurring in the community. So another question and really this is what you brought up Lee as  
17 maybe a subset of this broader question that I have which is do we need to look at the Housing  
18 Element and have a study session on how consistent it is with the direction the Council and the  
19 Commission and the community are going? There were a number of policies that I was surprised  
20 to see and said, gee, this isn't really where we are headed right now. If we want to reaffirm them  
21 and get policy aligned with the housing element that may be one outcome or are any of them  
22 ones that are candidates to be modified? So I would even add on top of what you were  
23 suggesting maybe we can pose the question to the Council is it appropriate for the Commission  
24 to begin to reexamine the Housing Element to see if there are recommendations that we see as  
25 necessary to or at least pose issues to the Council even if we don't make recommendations. I  
26 don't think that the issues have really been recognized.

27  
28 Mr. Larkin: Just as a caution, I don't mean to cut you off. I think it is important that at this point  
29 in the meeting that the discussion be limited to the topics but not a lot of comment on the topics  
30 because we haven't agendized any of those.

31  
32 Chair Burt: Good enough. So that was one thought on a possible discussion matter with the  
33 Council connected with what you were saying. Anybody else have any others?

34  
35 Commissioner Garber: Not immediately but I would like to give it some thought.

36  
37 Chair Burt: We would very much welcome to receive them by email between now and the third.

38  
39 Mr. Coe: Chair Burt, in between the time you have the meeting with the Mayor and the Vice-  
40 Mayor and the actual joint study session you will have a Commission meeting so you can report  
41 back to the full Commission in preparation for that meeting on Monday the 13<sup>th</sup>.

42  
43 Chair Burt: Yes, thank you. So on the eight we will be able to have a report to the Commission.

44  
45 Commissioner Lippert: Is there not a time factor by which whatever we are proposing to discuss  
46 with the City Council needs to be agendized?

1  
2 Mr. Larkin: No.  
3  
4 Chair Burt: Don has answered not a legal one, the time factor that we have is that before  
5 February 3 when Commissioner Holman and myself meet with the Mayor and Vice-Mayor I  
6 don't foresee changes to the agenda after that meeting.  
7  
8 Okay. Karen.  
9  
10 Vice-Chair Holman: I have a clarification that I would like on Commission Representation. On  
11 the ZOU Design and Environment Working Group Susan Eschweiler from the ARB is no longer  
12 there. So who has taken her place just as a point of information?  
13  
14 Chair Burt: So Judith Wasserman has taken Susan Eschweiler's place as the ARB rep on the  
15 ZOU Design and Environment Working Group. It looks like Zariah captured that.  
16  
17 Then in January Commissioner Holman is our representative. In February it is Commissioner  
18 Cassel. In March Commissioner Sandas. Dan.  
19  
20 Commissioner Garber: I assume that Commissioner Holman would still like me to represent the  
21 certain issue that is to come before the City Council next Monday?  
22  
23 Vice-Chair Holman: That which you start you can finish. If you would be so kind.  
24  
25 Commissioner Garber: Thank you, I will.  
26  
27 Chair Burt: Annette.  
28  
29 Commissioner Bialson: I hesitate to bring this up at this point but for awhile I was shown on the  
30 agenda as being the representative for January. Since there is a story here I don't want know.  
31  
32 Chair Burt: I don't what the story is. Somehow it was absent and filled in but if that means you  
33 are volunteering for the next opening in April we would certainly welcome that.  
34  
35 Commissioner Bialson: I am not here in April. What I was going to say is I am going to be sort  
36 of spotty for awhile so if someone needs to get a substitute in then make me the first call, okay?  
37  
38 Chair Burt: Okay. Our next meeting is February 8, 2006.  
39  
40 **NEXT MEETING**: Regular Meeting of February 8, 2006.  
41  
42 Chair Burt: This meeting is adjourned.  
43  
44 **ADJOURNED: 9:00 PM**  
45