



PLANNING & TRANSPORTATION COMMISSION MINUTES

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Wednesday, October 4, 2006
SPECIAL MEETING at 6:00 PM
Council Conference Room
Civic Center, 1st Floor
250 Hamilton Avenue
Palo Alto, California 94301

ROLL CALL: 6:05 PM

Commissioners:

Karen Holman - Chair
Lee Lippert – V-Chair
Patrick Burt - absent
Paula Sandas
Arthur Keller
Daniel Garber
Samir Tuma

Staff:

Curtis Williams, Chief Plan./Transp. Official
Donald Larkin, Senior Deputy City Attorney
Julie Caporgno, Advance Planning Manager
Zariah Betten, Executive Secretary

AGENDIZED ITEMS:

- 1. Zoning Ordinance Update

Chair Holman: I would like to call the Special Meeting of Wednesday, October 4, 2006 to order. Would the Secretary call the roll, please? Thank you.

At this time there is an opportunity for any member of the public who like to speak to any item that is not on the agenda.

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

Chair Holman: I have no cards so I am assuming there are no speakers for that item.

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

3
4 Chair Holman: This meeting is a continuation of the meeting last week having to do with the
5 Zoning Ordinance Update for commercial sites. If anybody wants to speak to that item the
6 public comment is still open. Please bring the cards straight to me that would be appreciated.
7 Does Staff have any presentation that you would like to make this evening?

8
9 **NEW BUSINESS**

10 **Public Hearings:**

- 11
12 **1. Zoning Ordinance Update:** Review and Recommendation of an Ordinance Deleting
13 Chapters 18.41 (Neighborhood Commercial), 18.43 (Community Commercial), 18.44
14 (Community Commercial Combining District), 18.45 (Service Commercial), and 18.49
15 (Commercial Downtown), of the Palo Alto Municipal Code (Zoning Ordinance) and
16 Adding Chapters 18.16 (Neighborhood, Service, and Community Commercial) and 18.18
17 (Commercial Downtown) Providing for Allowable Uses and Development Standards in
18 Commercial Zones, including Mixed Use Criteria, and Amending Sections 18.94.070 and
19 16.20.120 to Delete Amortization Requirements and to Allow Additional Signage for
20 3200 Park Boulevard/340 Portage Avenue/Olive Avenue (Fry's Electronics);
21 Environmental Assessment: Comprehensive Plan Environmental Impact Report.

22
23 Mr. Curtis Williams, Chief Planning and Transportation Official: Yes we do have a brief
24 presentation. What I thought I would do is respond to some of the questions that have come up.

25
26 Chair Holman: Excuse me Curtis. Is this for public comment? Thank you for the clarification.
27 I'm sorry Curtis.

28
29 Mr. C. Williams: What I was going to do was respond to what we heard at the last meeting
30 where you left us with half-dozen or so questions. I will respond to those. I also met with Kim
31 last Friday to get some elaboration on those. Then Commissioner Keller has emailed some
32 questions earlier this week so I will try to respond to those. Julie has some responses. Chair
33 Holman called today and I will talk about the response to the questionnaire. Then I would like to
34 let Rick Williams briefly talk about the issue of the minimum commercial area recommendations
35 and where that came from because I know that is an issue of interest to a number of you. Then I
36 guess you could do the public comment after that and then your deliberations.

37
38 Chair Holman: If I could interject one thing. Some Commissioners are new and these
39 microphones, I don't know if they are oversensitive or not sensitive enough but the rustling of
40 paper really interferes with being able to transcribe the minutes later. So if we try to keep the
41 rustling of papers at a minimum that is one of the big detractors from clarity. It is comfortable in
42 this room we tend to kind of jump in and start talking. So if we could try to keep some order to
43 that. Then the other thing is try to speak loudly and clearly so it is easier for the transcription.
44 So with those comments, thank you Curtis.

1 Mr. C. Williams: Some of the questions Commissioner Burt raised were first of all if the
2 amortization date on Fry's is removed and there is a change of use or occupancy there is that
3 allowed and is the commercial space retained that way? The response to that is that there are
4 conditions right now that limit that site to 60,000 square feet of retail so that would still be in
5 place and any change of use like wanting to take that retail space and wanting to make it office
6 would be considered a change of use not consistent with the existing nonconforming use so it
7 wouldn't be allowed. So essentially there could be a different user potentially, some other retail
8 could come in there, but it couldn't exceed 60,000 square feet that it is limited to currently.

9
10 Commissioner Garber: Could it be less than the 60,000?

11
12 Mr. C. Williams: It could but the other space would basically be vacant then because it wouldn't
13 be allowed to be converted to another use.

14
15 Vice-Chair Lippert: That retailer could include a grocery store which we do not divine much
16 sales tax from either.

17
18 Mr. C. Williams: Yes, it could include a grocery store, which is not as big a sales tax generator
19 as some of the other uses although I wouldn't say it is not a positive sales tax producer. We have
20 a fair amount of grocery stores and a lot of it is exempt from sales tax.

21
22 Vice-Chair Lippert: Right.

23
24 Mr. C. Williams: The second question was on the area of hazardous materials use and storage.
25 We have a provision that says that for mixed use that hazardous materials use and storage should
26 not be allowed in the nonresidential part of the mixed use component. What we did was
27 identified thresholds in reference to some of the fire and building regulations tables. I think Pat's
28 comment was is that threshold so low that a hardware store with a couple dozen cans of paint or
29 something like that wouldn't be allowed. The answer to that is no, the threshold above which
30 you have to get certain permits from the Fire Department is fairly high and does allow those
31 kinds of uses that could be permitted in terms of mixed use. So I have a memo here from the
32 Fire Department if you are interested I can read to you what some of those quantities are and
33 that. We did run it by the Fire Department and it is not something where just having a couple
34 gallons of kerosene or having a few gallons of paint is going to trigger that prohibition.

35
36 Commissioner Keller: Am I correct in assuming that the threshold is dependent upon the degree
37 of toxicity of the item?

38
39 Mr. C. Williams: Yes.

40
41 Commissioner Keller: So paint is fairly low toxicity and therefore you could have a lot more
42 quantity than arsenic, which is fairly high toxicity, and therefore you would probably have a
43 threshold that is fairly small.

44
45 Mr. C. Williams: Absolutely, that is exactly what the Fire Marshall said. The table is different
46 depending on the toxicity of the material.

1
2 Thirdly, Commissioner Burt brought up incentives to providing rooftop gardens and can we do
3 something to provide for rooftop gardens that would be in addition to open space requirements
4 and that kind of thing. Also, he expressed concern to me about would allowing rooftop gardens
5 to be counted as part of the open space, could that in some instances mean that we generally get
6 no open space elsewhere and all open space is on the roof? We don't have any limitations on
7 that kind of thing. So as far as incentives to providing rooftop gardens we think this provides
8 some incentive to rooftop gardens allowing it to count against the open space first of all. We are
9 going to be coming to you in late October and early November with some landscaping issues that
10 apply kind of across the board in commercial, industrial and multi-family zones. We think that if
11 there is a desire to talk more about some of that that might be the more appropriate forum for
12 doing that. On the other hand I tend to agree that there may be something we need to do here to
13 specify that maybe no more than 50 percent or something like that of your open space can be
14 satisfied with rooftop gardens so we do assure that there is open space distributed throughout the
15 project as well. If that is something you would like for us to do we would be glad to add
16 something like that into the ordinance.

17
18 Vice-Chair Lippert: I have a question there. What about doing a penalty? So in other words if
19 you do a rooftop garden it only counts as half of the amount that you would be required to
20 provide and therefore you have to provide twice as much in order to?

21
22 Mr. C. Williams: That is similar to what I was suggesting but yes, in a different formula kind of
23 way. Yes, that could be done too.

24
25 Commissioner Sandas: I have a question. I am not sure why a rooftop garden would count as
26 open space at all and why we would have that and not just require open space at the ground level
27 which provides easy access for the public.

28
29 Mr. C. Williams: Well, we are anticipating rooftops gardens and I think the language in here
30 talks about having access and it is intended to be and it can be a very nice entity for the
31 residential users.

32
33 Commissioner Sandas: Yes, for the residential users I think it is wonderful. I think rooftop
34 gardens should be encouraged but I am just worried about the amount of cement on the ground
35 below as opposed to open space.

36
37 Mr. C. Williams: Right. So that is where I think we could do something to balance that.

38
39 Chair Holman: Curtis, do you want to go through all of these and then us ask you questions?
40 Would that be better for you?

41
42 Mr. C. Williams: It would probably be more efficient that way.

43
44 Chair Holman: Okay.

1 Mr. C. Williams: The issue of the CN, Neighborhood Commercial, on El Camino Real and the
2 potential to increase that from a 0.9 to 1.0 FAR, I think this might have come up last time, should
3 we maybe only provide that if the additional .1 FAR is retail as opposed to it being residential is
4 essentially the way it is currently in the other zones. Our response to that is that certainly we
5 could do that if you would like to do that. It would be fine. I don't think it makes a big
6 difference one way or another it is one-tenth, .1 FAR, so if that incentive is better, you feel that is
7 more comfortable that's fine. I think the only concern would be that it is already hard enough to
8 reach a .4 FAR especially in the CN where we almost always have surface parking so you would
9 probably never see it happen. But we could do that or keep it limited to .9.

10
11 Medical offices he suggested that we could allow those if they are not on the street face frontage
12 of if they are on the second floor. We already do allow them generally on the second floor in
13 these zones. In some cases they are also allowed behind retail uses on the first floor. So I don't
14 think we need to do anything. We could do more to try to accommodate them on the first floor
15 behind but I would hate that we would be doing it to some extent at the expense of retail. So I
16 wouldn't suggest going there at this point.

17
18 Can we, and this question has come up a couple of times before, about retaining the current
19 amount of retail at the site. I think Rick can probably talk to this a little bit when we get to his
20 material. We do think that that's not realistic in many situations and it discourages reinvestment
21 and revitalization of those sites. We have opportunities with some of the potential turnover in
22 these sites even with less retail to have a more advantageous type of use and revenue flow than
23 we would have with maintaining the existing retail there. Many of them will not turnover if they
24 are told they have to fill that amount of retail. So we don't think that is appropriate but we are
25 open to hearing you out on that.

26
27 He also asked about the 25 percent of the hotel floor area that could be used for residential
28 condominium use and whether those residential condominiums are then turned around and rented
29 out on short-term rates like a timeshare type of thing whether we get transient occupancy tax. I
30 haven't gotten a firm answer on that. I think the answer is no. His point was that if we do then
31 we shouldn't worry so much about percentage and limiting the percentage. In talking briefly
32 with Susan Arpan, our Economic Development Manager, she doesn't think that we get it on that
33 and it would be very difficult to track whether somebody is renting out their individual unit by
34 some other means. So we would stick with the recommendation of 25 percent so we do have
35 some limitation on that residential use.

36
37 Then last Friday when he came in he asked about rezoning Alma and Edgewood Plazas to CN.
38 They are currently both Planned Communities and they are proposed to be that again. Any
39 application that would come in would then be Planned Community zones. We are not rezoning
40 as part of the ZOU process. We have discussed that before. What I did suggest is that when
41 those projects come before you that you can as a baseline if you want to in comparing what could
42 happen if this was under CN to what is being proposed you certainly are able to do that. We can
43 help provide that kind of comparison for you when they come through.
44

1 So that was the questions I had from Commissioner Burt. Commissioner Keller asked and
2 maybe I will run through some of these and then I will tell which ones Julie will fill-in and we
3 will come back to those.

4
5 First what commercial properties are on the Housing Sites list and what information do we have
6 as far as their current use, number of units prescribed in the Housing Element, the square footage
7 of retail? I don't think we have that detail here but my understanding is that we have only got a
8 couple of sites left and Julie can go ahead and respond to that.

9
10 Ms. Julie Caporgno, Advance Planning Manager: Well I distributed the list that is actually in the
11 Housing Element. There are only two sites that are commercially zoned that haven't been
12 developed in housing that are on the inventory. Those are, and the site numbers refer to a map
13 that is in the Housing Element, and those are sites number 521, which is the former craft and
14 floral building and site 531 and that was the site that actually there was a mixed use development
15 that was approved but the permit has expired and the applicant never developed the project.
16 Those are the only two currently on the inventory that have commercial zoning districts on them
17 and weren't developed under the housing that was projected in the Housing Element.

18
19 Just to let you know how the state deals with this we made a commitment that we would rezone
20 these properties that weren't zoned for housing to the proposed zoning if a housing project
21 wasn't underway or wasn't completed. The state may require us to go back and even ones like
22 Hyatt Rickey's that has commercial zoning but is currently developed in housing for this next
23 Housing Element we may have to rezone it for housing to preserve that housing district on the
24 property.

25
26 We have identified in here mixed use and I know that was one of Commissioner Keller's issues
27 as to whether or not we could legally identify mixed use and if that would pass muster with the
28 state. As you can see it would, however, at the time we put mixed use as a proposed zoning
29 district we were thinking that mixed use would be a separate zone so that you could – right now
30 it is going to be incorporated in the commercial zoning districts. So the state wants you to have
31 these sites preserved for housing. So I think under the way we are currently looking at mixed
32 use we wouldn't be able to propose a CS or CN or whatever type of commercial zoning district
33 and enable it to get mixed use unless we did something. There is a possibility of maybe
34 designating these sites mixed use on the Comprehensive Plan and somehow preserving them for
35 housing in that fashion. But we have to kind of explore that and we will be doing that with the
36 next Housing Element.

37
38 Mr. C. Williams: So the second part of it was could they be built under a mixed use requirement
39 and could we require that this housing be 100 percent affordable or attainable levels of housing?
40 We don't think we can without potentially having a take-in-use argument that we would need to
41 compensate the property owner even pre-Proposition 90 they would have that argument to make.
42 Unless it was a nonprofit that wanted to do housing. We couldn't require a private property
43 owner to and I don't know if you want to say anything about that, Mr. Attorney.

44
45 Mr. Don Larkin, Senior Assistant City Attorney: I think you said it. You took the words right
46 out of my mouth.

1
2 Mr. C. Williams: What commercially zones properties currently are not utilized for retail? We
3 don't really have that information available. What commercially zoned properties are suitable
4 for hotels? We don't have any specific criteria for hotels. There are certainly a number of
5 properties out there that could be redeveloped that seem to be large enough for hotels. Certainly
6 the existing motel sites could be redeveloped for that purpose for higher intensity type of hotel
7 use.

8
9 Then what are the implications of converting retail use, and correct me if I am not interpreting
10 the question right, of converting something that is a retail use to a hotel use that doesn't have any
11 retail on it? I think that would be a kind of case-by-case what type of retail and what amount of
12 retail is there now, what is the size of the hotel or that kind of thing, what are the characteristics
13 of the property in terms of access and does it work for a hotel but not for retail. So it could be
14 beneficial in terms of a revenue situation but it could probably go either way but it would really
15 depend on the specific site and the specific proposal we were looking at.

16
17 Commissioner Keller: So a hypothetical situation in which that was to happen would that be
18 coming through a variance, would that come through a PC or what?

19
20 Mr. C. Williams: It wouldn't unless you specifically required that a hotel come through a special
21 process, Site and Design Review or something or a use permit or something like that which tends
22 to discourage them to some extent due to the extra time when it gets more discretionary.

23
24 Commissioner Keller: What I am wondering is if there are such sites which are zoned retail and
25 that which are zoned commercial and somebody were to propose a hotel and we were to require
26 a minimum amount of retail how would that proposal then be submitted?

27
28 Mr. C. Williams: If you required a minimum amount of retail then I should clarify that we are
29 not suggesting that here with the hotel, we are suggesting it with the mixed use when you have
30 residential.

31
32 Commissioner Keller: So if there were no residential then it would not be mixed use and
33 therefore there would not be a requirement for retail.

34
35 Mr. C. Williams: Right. That is the proposal.

36
37 Then I am going to let Julie answer this one. You had asked how much housing is required by
38 income category, how much has been built, what our projections in the Comp Plan were, how
39 much more is projected and that kind of thing. Julie has a table.

40
41 Ms. Caporgno: Yes, I distributed the table. At the top it shows the breakdown that we were
42 required by the ABAG Fair Share Housing Requirements. Our contribution was 1,397 units and
43 to date we have approved 1,135 and built 987 of them. So our unmet need is 262 but you can see
44 they are broken down by the different income levels.

1 Then we also broke down the different projects that contributed to each of those income
2 categories.

3
4 As far as with the Comprehensive Plan it assumed by 2010 that we would develop 2,400 units. I
5 didn't realize until I was sitting here that this shows the Housing Element timeframe started in
6 1999 and the Comprehensive Plan was approved in 1998. So there are about 150 more units that
7 should be added to each of those columns that would take you back all the way to the inception
8 of the Comprehensive Plan. I can send that out to you separately for your own information.
9 There are still some units that we haven't developed or approved under the Comprehensive Plan
10 that were assumed to be built by 2010 of the 2,400 units.

11
12 Commissioner Keller: So what I am assuming from here is that this 673 approved is actually the
13 maximum of the amount of the need and the amount of above moderate that was actually
14 approved which is higher. So you have capped the amount that is approved for the above
15 moderate at 673 when the actually amount that was approved was 1,922.

16
17 Ms. Caporgno: Correct. If you see that box that is what it says. The City has actually approved
18 1,922 above moderate units and 129 low-income units but only 673 and 116 respectively
19 contribute to the Regional Housing Needs Assessment.

20
21 Commissioner Keller: So it looks like from here if I do the rough math it looks like about
22 another 1,300 units were approved but they don't count because they are in the wrong category.

23
24 Ms. Caporgno: Correct. They don't count towards our contribution for the ABAG numbers.
25 ABAG will take into consideration when they allocate for the next Regional Housing Needs
26 Assessment they will take into account the number of units we built totally but they are not going
27 towards our contribution. So for instance we are still deficient in these two categories and it is
28 not offset by the fact that we built more market rate units than were required.

29
30 Commissioner Keller: Right. Now earlier I think you said that there were 2,400 units projected
31 in our Comp Plan.

32
33 Ms. Caporgno: Correct.

34
35 Commissioner Keller: It says that 1,136 are mentioned in this total, in this column approved
36 1999 and 2006. That doesn't include about 1,300 units that are on the bottom in above
37 moderate?

38
39 Ms. Caporgno: No.

40
41 Commissioner Keller: There are about 1,200 to 1,300, 1,922 minus 673 is about 1,250 units
42 according to my math. Therefore there are another 1,250 units that are above this total of 1,136
43 so then the net total is actually instead of 1,136 it is 14 or 13 less than 2,400 plus you mentioned
44 another 150 that were before the date of this. So by my reckoning that is approximately 2,550
45 approved units during the life of the Comp Plan.

1 Ms. Caporgno: Possibly. I kind of got lost in your math.
2
3 Mr. C. Williams: Does this include this?
4
5 Ms. Caporgno: This is all of this. The 1,922 above moderate include the 1,397.
6
7 Commissioner Garber: When you reissue this perhaps you have two columns here. One that has
8 the ABAG and the other one that has the RHNA numbers so we can see what the differences are.
9
10 Ms. Caporgno: Yes, that would be simpler. The 673 units you can see, maybe it is so small
11 maybe you can't see it, we have exceeded the number for the market rate by 673.
12
13 Commissioner Keller: Well, perhaps it would be useful in terms of this as was mentioned by
14 Commissioner Garber is the idea that the amount that counts for ABAG and the amount that
15 counts for the Comp Plan and also to put a grand total on the bottom. Since some of these
16 numbers have been capped, some of the numbers on the bottom chart have been capped, when
17 placed on the top chart I don't see a grand total on the very bottom. So adding another column
18 that would indicate the life of the Comp Plan and a grand total on the bottom would basically
19 definitively indicate how many housing units we have actually built.
20
21 Commissioner Garber: And where they are.
22
23 Commissioner Keller: And where they are, yes.
24
25 Mr. C. Williams: We will try to clarify that for you.
26
27 Ms. Caporgno: I think either there is an incorrect number here or it just coincides that we have
28 1,922 Comp Plan units but I don't think that is the case. We will clarify and give you a table that
29 explains that.
30
31 Vice-Chair Lippert: I have a question. Is there a correlation between unit size and affordability?
32
33 Ms. Caporgno: Normally, it is assumed that the smaller units are more affordable but there is not
34 anything that we – it is all within an income level – the way we allocate these is either the below
35 market rate units are in the moderate income level because they are from 80 to 120 percent of
36 AMI and then the low and very low are usually projects like Court where they get actually
37 funding and they are committed to a certain income level.
38
39 Commissioner Garber: To answer the question directly though, the answer is no. The levels are
40 defined by dollars and not by square footage.
41
42 Ms. Caporgno: Correct.
43
44 Vice-Chair Lippert: The reason I am asking that question is because part of our charge here is
45 dealing with percentage of FAR.
46

1 Commissioner Garber: Oh, and how do you correlate?
2

3 Vice-Chair Lippert: Exactly. Even though we have to provide a certain number of BMRs,
4 which is what, ten percent?
5

6 Ms. Caporgno: No it is 15 percent.
7

8 Vice-Chair Lippert: So the idea is that we would want comparable size units for the affordable
9 housing but if you get more units in there you are going to wind up with more affordable
10 housing.
11

12 Chair Holman: If I might, has that proven true in Palo Alto? I don't know that it has. It seems
13 like no matter how many units we build the market.....
14

15 Mr. C. Williams: The term 'affordable' because you get more units and maybe five units each
16 unit sells for less than if it were only four units but none of those units is going to meet the
17 income levels that make it affordable or to be able to call it affordable.
18

19 Chair Holman: And even at that though it seems like, maybe I am reading something into your
20 statement too, if there are more smaller units while they don't satisfy the affordable category that
21 if they are smaller they are more affordable or that we are creating a marketplace that has more
22 affordable units. That wasn't what you intended?
23

24 Vice-Chair Lippert: No. The number of affordable units is based on a percentage of the units
25 built. So if you build 15 units you have to provide one that would be affordable. If you build 30
26 units then you have to provide two.
27

28 Chair Holman: Okay, that was the direction. Okay.
29

30 Commissioner Keller: Can I ask some follow up questions to the issue of mixed use just to
31 clarify? In terms of the two properties 5-21 and 5-31 the two properties on Alma Street, since
32 these are proposed zoning of mixed use can we require that there be some retail as part of these
33 units since our specification in our Housing Element was to describe them as mixed use?
34

35 Chair Holman: Can you hold the answer to that? I think the Staff has a few more questions to
36 answer and we are beyond clarifying questions. We have a member of the public to speak. So if
37 you could hold that.
38

39 Commissioner Keller: Sure.
40

41 Chair Holman: That would be great.
42

43 Mr. C. Williams: Okay, so that was Commissioner Keller's questions. Then Chair Holman had
44 a question this afternoon about how we can retain motel uses on El Camino Real for the hotels
45 that we have. What I informed her of was that first of all generally we think that there are a
46 number of opportunities for these motel sites to be much more productive in terms of revenue

1 generation as well as just the design enhancement and such that could occur by being
2 redeveloped as some mixed use project or some retail project or another motel or hotel on the
3 site. The specifics of that are that we have TOT, Transit Occupancy Tax, and information about
4 the hotels. We are not allowed to share that with you on a motel-by-motel business. But we can
5 give you some aggregate sense of that. I looked at that list there are 25 give or take motels or
6 hotels in Palo Alto. There are 17 that I counted that are essentially motels south of Page Mill or
7 certainly south of bigger hotels like the Westin and Sheraton. So of those 17 out of 25 comprise
8 about 25 percent of the TOT that we get. If you take out the two largest of those in terms of
9 TOT these 15 comprise about ten percent of the total TOT we get. Those are not productive
10 hotels. They have high vacancy rates or low occupancy rates. Don can tell you about the police
11 calls at some of them. In any event we don't think it is productive to try to retain those motels
12 but the incentives that we are putting in for hotels which includes we think is a better approach to
13 provide opportunities and some incentives for doing something more on those sites that might be
14 a better design as well as more attractive from a revenue standpoint.

15
16 Vice-Chair Lippert: I have a question on that. Aren't a lot of those hotels people that are on
17 public assistance?

18
19 Mr. C. Williams: There are some I think.

20
21 Mr. Larkin: It depends on which ones you are talking about. Most of the true hotel/motel uses
22 are restricted 30-day stays. I don't believe it is used for long-term housing.

23
24 Mr. C. Williams: There may be some that have some components of that. If it is truly someone
25 living there, a housing situation, then it wouldn't be in this list and there would be no TOT
26 associated with that.

27
28 Commissioner Sandas: I think this might be a clarifying question. So then a 25 percent block in
29 the hotel for residential use like condominium type use or timeshare is an incentive to build
30 hotels or motels here? That is something that the hoteliers.....

31
32 Mr. C. Williams: We are researching some publications as well as our Economic Development
33 Manager has been talking to some hotel representatives who definitely feel that having that
34 residential condominium component is an incentive to build a hotel.

35
36 Commissioner Sandas: Yes, because I was going to say that there doesn't seem to be – with
37 such a low occupancy rate or high vacancy rate....

38
39 Mr. C. Williams: Those are that kind of hotel. The other hotels we have in town have high
40 occupancy rates.

41
42 Commissioner Sandas: Good, okay.

43
44 Mr. C. Williams: The Sheraton, the Westin and Garden Court all have very high occupancy
45 rates. They are the ones, not surprising, have the high TOT.

46

1 Chair Holman: Anything else you have?
2

3 Mr. C. Williams: I would turn it over to Rick unless you wanted to take that first.
4

5 Chair Holman: Please and I had one quick question about the motel. The economy having taken
6 a southward bend is some of the low occupancy related to the economy which is now coming
7 back and for the higher end hotels is quite improved but is that related at all? I don't know what
8 time period this was done.
9

10 Mr. C. Williams: This is very recent.
11

12 Chair Holman: Okay.
13

14 Mr. C. Williams: This information is the last quarter I think. It is recent and I don't know what
15 the trend specifically has been but that is recent information. I doubt that there is much
16 correlation there between the economy and the low occupancy rates.
17

18 Chair Holman: Okay. All right. I think if we could we have one member of the public who
19 submitted a card, Amy Powell, who is here from Orinda.
20

21 Ms. Amy Powell, Orinda: Good evening Commissioners. I would just very quickly like to ask
22 you all to please take a careful look at the provisions that prohibit residential mixed use in the
23 Midtown Shopping Center. I took a look at this issue for the first time two years ago when I
24 purchased one of the properties in the shopping center. I discovered from the zoning ordinance
25 that although it is covered in a couple subsections it is not clear that residential use is prohibited.
26 I looked at it again I think in March when the Zoning Ordinance Update was presented at
27 Midtown Resident's Association meeting, it wasn't discussed, but I looked at the ordinance and I
28 came away thinking oh good, they are going to allow residential mixed use with residential on
29 the second floor and retail below. I thought that again when I looked at the ordinance update a
30 few weeks ago when I go the notice but I understand now from Mr. Williams that the intention is
31 to continue the prohibition on all residential development in the Midtown Shopping Center.
32

33 I am not aware of the extent of opportunity for public participation on that issue. I understand
34 that that prohibition was initiated a very long time ago with intent of not shrinking the parcels in
35 commercial use on the fringes of the shopping center. Coming forward what we have by
36 carrying it on is a situation where ground floor will be restricted to retail use and second floor
37 development will be allowed to be office use but residential use will be prohibited. I would like
38 you to give careful consideration to what policy objectives are going to be furthered by that
39 situation. I understand that there are objectives of increasing housing, and of protecting retail. I
40 know that the resident's association is interested in not intensifying parking. It seems to me that
41 allowing the flexibility of residential or office development on the second floor in the shopping
42 center would be a better way to promote those policy objectives. Thanks.
43

44 Chair Holman: I think we have a couple of clarifying questions for you. Commissioner Garber.
45

1 Commissioner Garber: I was just going to ask what do you see as the benefit of having the
2 residential plus the retail there?
3

4 Ms. Powell: My experience over the past two years in trying to figure out how to make my
5 particular property something that is economically viable and something that everyone can be
6 proud of the challenge has been taking a small number of square feet, because I have a very
7 small parcel, and bringing it up to code and still being able to rent it at a rent level that is
8 attractive to local businesses. Having the opportunity of retail plus residential because
9 residential is more in demand I think would increase the opportunity for economic viability in
10 situations like that. Obviously the parking restriction is the limiting factor particularly for small
11 parcels.
12

13 Chair Holman: Commissioner Keller.
14

15 Commissioner Keller: Yes, one of the considerations that comes up here is the interface between
16 residential and retail. I don't know if you are aware of the protests from the condominiums
17 adjacent to I think it was Midtown Skating and what was going on there where they were
18 complaining about noise. In fact skating had been there for many years and then the condos
19 were added later.
20

21 Vice-Chair Lippert: Ice-skating.
22

23 Commissioner Keller: Ice-skating, right, had been there for many years and then the condos
24 were added later. There was also something about tennis courts that were going on there. I am
25 sort of wondering what your thoughts are about how we deal with that interface and whether the
26 people who live in the residences that you would consider building whether that would be
27 impinging in some negative way on the retail or visa-versa?
28

29 Ms. Powell I: I think anyone who would occupy those residences would do so knowing that they
30 are existing in a retail environment, in a commercial environment, and hopefully they would be
31 willing to accept those limitations on whatever quality of life they perceive. I don't think that
32 that issue would relate differently to the neighborhood commercial in Midtown than it would to
33 other neighborhood commercial areas. I think the issue would be same as it is in other areas that
34 don't have the residential prohibition.
35

36 Chair Holman: Any other questions? Thank you very much.
37

38 Mr. C. Williams: Do you want to see if we have any public speakers and then close the hearing?
39

40 Chair Holman: Are there any more speakers who would like to speak to this item?
41

42 Ms. Diana Chien, Palo Alto: I am sorry we missed the meeting. Is this open to talking to the
43 public? I am sorry I not familiar with the procedure.
44

45 Chair Holman: Yes, if you would like to fill out a card and come forward to the microphone and
46 speak to this item of the Zoning Ordinance Update.

1
2 Ms. Chien: I will be more than happy to do so.

3
4 Chair Holman: If you would like to come to the microphone and fill out the card later that would
5 be fine.

6
7 Ms. Chien: Great.

8
9 Ms. Caporgno: While we are waiting I just wanted to say that I looked at the numbers and
10 Commissioner Keller is correct in one respect. What I was confused about is the Comp Plan
11 assumes 2,400 units to be built so you are really looking at the second column as opposed to the
12 first column. You were comparing the 1,900 plus the 100 and some units and you were saying
13 we were over 2,400 right now when you add all of these columns up plus the 150 or so units but
14 that is approve as opposed to built. So you really should be looking at the second column,
15 adding all of those totals up plus 150.

16
17 Commissioner Keller: Do we expect that the ones that were approved won't be built?

18
19 Ms. Caporgno: We don't know. It will be done by 2010 so some of those may be and some of
20 those may not be.

21
22 Mr. C. Williams: If all of them were then it would be over 2,400.

23
24 Ms. Caporgno: So right now where we are though is the built column that compares to the
25 2,400.

26
27 Commissioner Keller: Are there any there that you expect not to be built?

28
29 Ms. Caporgno: I don't know if they will be built by 2010.

30
31 Commissioner Keller: Okay.

32
33 Chair Holman: Okay, Diana Chien. You will have five minutes.

34
35 Ms. Chien: Thank you. Dear ladies and gentlemen, my name is Diana Chien. I am the daughter
36 of Charles and Grace Chine, the owner of the Mayflower Garden Motel located at 3981 El
37 Camino Real in Palo Alto. We are here today because we are concerned about the City's
38 intention to rezone our property from its current zoning of CS, RM-30, or RM-40 to a
39 commercial zoning district.

40
41 At the time of the last Comprehensive Plan our property was identified as best used for housing
42 with a commercial portion for that area fronting the El Camino Real. Since that time many
43 similarly zoned property has been allowed to become 100 percent residential. This has been due
44 to market demand and neighborhood group desires. This is still the case as we have experienced
45 in the past and today. Our motel is located in the area called the El Camino motel row area.
46 Other than the three small 100 percent commercial businesses rest of this area is zoned CS and

1 RM-30. For our property the current ratio is RM-30/40 and CS is less than five to one. That
2 means our property is zoned mostly for multi-residential. There are three other motels in a
3 multi-residential project Camino Place in this area along with our property. We are concerned
4 that we are being singled out for this new commercial zoning task the City of Palo Alto is
5 undertaking.
6

7 My family has owned Mayflower for 28 years, since 1978 when my father was 52. Now he is 80
8 years old. There have been many zoning changes and studies of the Comprehensive Plan by the
9 City of Palo Alto. My family has tried to make improvements and possible expansion but due to
10 zoning restrictions we have encountered many difficulties and cause our family a large sum of
11 money and lost revenue. We have abided by the laws and restrictions set by the City of Palo
12 Alto. Now we feel the sand is moving underneath us and that we have no site for our future.
13 Among the many zoning changes, Planning meetings, and recommendations I would like to
14 mention one important recommendation pertaining to our property. In September 1995 at the
15 City of Palo Alto Planning Commissioner Meeting Mr. Schreiber, the Director of Planning and
16 Community Environment, recommended that Area 7, which is 3901 to 3981 El Camino Real that
17 is called the motel row area, to be kept multi-family residential. I quote, "We do not suggest
18 going to expanded commercial designation for these sites. If one of the four motels sites were to
19 redevelop we certainly want to retain the multi-family residential land now available." For many
20 reasons my family strongly feels that the best use of our property for us as property owners as
21 well as for the neighborhood in general is for multi-family residential. For example our
22 property's frontage to El Camino is very small. It is only 150 feet including the driveway into
23 the property. Furthermore, the depth of the property is almost 400 feet with no back entrance or
24 exit. It backs up to Ventura School resulting in a very limited exposure, no visibility to the street
25 for retail commercial purposes. The property is bounded on two sides by residential use.
26 Commercial use on this site would produce conflicts such as noise, lights, etc. with adjoining
27 residential use. Furthermore, access to the site from El Camino Road is poor due to the limited
28 area for the curb cut and the close proximity to a signaled intersection. Residential use would
29 cause the lowest level of traffic to the heavily traveled El Camino Real. We do not oppose the
30 changes you have presented today but we would like to be a full participant in the City planning
31 process. After 28 years of living with zoning limits, after relying on the City to tell us what to do
32 and plan, after we abide by the laws, now the sand is moving under our feet again. To change
33 the intention of the City's Comprehensive Plan it requires a review of the complete
34 Comprehensive Plan. We intend to present a more fully detailed package to you in a few weeks.
35 I thank you for your attention.
36

37 Chair Holman: Thank you. Any questions for the speaker? Curtis.

38
39 Mr. C. Williams: Could I go ahead and respond to that since it is not addressed here?
40

41 Chair Holman: Yes.
42

43 Mr. C. Williams: I know we have reported to you before that on August 7 Council directed that
44 we do a number of things related to commercial zoning and one of them was that we rezone or
45 bring back proposed rezonings for three sites that are currently zoned primarily residential. One
46 is the Mayflower Motel, one is Summer Winds Nursery and the other one is Palo Alto Bowl site.

1 So all three of those are under study now at the Staff level. Julie is heading up the team that is
2 working on those rezonings. They will be meeting with the property owners. They have already
3 had some initial contacts with them. They will be meeting with the community in the area
4 around those to see how they feel effected by zoning changes to some kind of commercial or
5 mixed use categories. We will then be bringing some recommendation forward to you at public
6 hearing in the future, at the earliest November maybe later than that and then on to the Council.
7 So there are several steps here at which point Julie's folks will be looking at the specifics of
8 these three sites. It may be that they all may not fall into the same category as far as what
9 suggested zoning would be. It is going to depend on what is on either side of them and what the
10 site is shaped like as well as a number of other factors as to what we bring back. So I appreciate
11 the comments and we do have a game plan laid out to meet with the interested parties and then
12 come forward to you and they will certainly have a lot of input at that time.
13

14 Ms. Caporgno: We are planning on going to the community at the end of this month. We are
15 just right now trying to get a location. We will be looking at several prototypes for the
16 individual sites. A mixed use configuration -- residential on the property, which is currently
17 allowed, and then a retail scenario for the site. So there will be various scenarios that you will be
18 reviewing when they do come back to you. As Curtis said we are hoping to come to you with
19 those rezonings for the three sites in November and then probably going to Council with a
20 recommendation in early 2007.
21

22 Mr. Larkin: The rezoning isn't actually on the agenda. If it is a quick clarification that's fine but
23 we shouldn't get into a lengthy discussion of that.
24

25 Vice-Chair Lippert: No, it is a quick clarification. The first one is with Prop 90 coming up if it
26 passed would that represent a taking?
27

28 Mr. Larkin: I don't know that it would be considered a down-zoning but I can't tell you what
29 Prop 90 would do because it is not very well written.
30

31 Ms. Caporgno: Council was aware of this when they asked us to pursue this. They knew we
32 wouldn't be coming back to them before the election and they had some discussion about the
33 potential effects of Prop 90.
34

35 Vice-Chair Lippert: Regardless the existing uses and zoning on there would be legally
36 conforming, correct? So even if there was a rezone.
37

38 Mr. Larkin: They are currently legally existing nonconforming.
39

40 Vice-Chair Lippert: So nothing would be taken or forced to demo the buildings or sell the
41 businesses, etc.?
42

43 Ms. Caporgno: No.
44

45 Chair Holman: Commissioner Keller.
46

1 Commissioner Keller: I would just like to know how submitting a proposal for redevelopment of
2 that property interacts with a rezoning that is going on in approximately the same time?
3

4 Mr. C. Williams: There isn't anything submitted. She mentioned bringing a proposal to you but
5 there is nothing coming to you any time soon. I think they are probably looking at meeting with
6 Julie and showing them what they are thinking.
7

8 Chair Holman: Right. Commissioner Garber.
9

10 Commissioner Garber: You mentioned development of prototypes. You are talking about
11 prototype uses not building types, etc.?
12

13 Ms. Caporgno: Kind of massing scale on properties given the development standards so that you
14 could see what it would be like and get a feel for where you could put parking, kind of the sizes
15 of the building, that sort of thing.
16

17 Chair Holman: Okay. Given that there are no other cards from the public I would like to close
18 the public hearing. Rick, I believe you have a presentation to give. Did you have something
19 else, Curtis?
20

21 Mr. C. Williams: No, I will let Rick give his and then when he is done I will respond to
22 comments and things.
23

24 Chair Holman: Just as a reminder too, did you want to state what your potential constraint is so
25 we can focus questions to you as early as possible?
26

27 Mr. Larkin: Yes, I have a hearing early tomorrow morning so I may disappear assuming the
28 meeting is hopefully not as long as the last meeting. But if it runs long I will probably be leaving
29 a little early. So if people have questions for me let's get them out of the way early.
30

31 Commissioner Sandas: So what does that mean exactly in numbers? Like ten o'clock or eight
32 o'clock?
33

34 Mr. Larkin: Certainly by ten o'clock because my goal is to be asleep by eleven.
35

36 Mr. Rick Williams, Consultant: At the last meeting that I was able to attend, I apologize for
37 missing one, the discussion about retail space, and the percentage of retail that was appropriate
38 as a percentage of the FAR was discussed and asked about. We were discussing it and I gave
39 examples illustrated up on the wall there for small sites and what the implications of a relatively
40 small site versus a large site. We had previously looked at larger sites so without having a fancy
41 presentation with it what we did was kind of looked at what the issues of looking at a greater
42 FAR on a large site and how that would play out differently than a small site. We felt that on a
43 standard retail site if you are doing traditional parking ratios when you aren't able to take into
44 account mixed use you are going to get approximately a .25 FAR. That would be a relatively
45 standard floor area ratio for a retail development. That is regardless of whether or not you are on
46 a small site or a large site. If you are building a shopping center you are hard pressed to get

1 above a .25 FAR unless you are doing structured parking, which would require a large site. If
2 you are doing a small site and you are doing a single story or a two story building and you are
3 trying to park it you are always going to be somewhere between a .2 and .3 floor area ratio as
4 kind of your max without going to something more extensive from a parking standpoint.
5

6 When you are doing structured parking sub-grade I can tell you know that every economic work
7 that we have done with economic consultants retail development isn't alone in and of itself in
8 paying for sub-grade parking. So what is really paying for sub-grade parking has the mixture of
9 uses above whether it is an office or a residential use. That is what pays for the sub-grade
10 parking and justifies its existence. So retail whether it is in Palo Alto or in other areas just isn't
11 supporting that. We are anticipating that you are going to get retail space that is around .25 FAR
12 as a relatively standard practice. We felt that a .15 FAR is a minimum FAR for a mixed use
13 development. We gave some flexible considerations to unique shapes of different parcels. Some
14 parcels will be able to achieve a .25 and others will not be able to achieve .25 and that is just
15 because of the fundamental depth of the parcels. The less deep the parcels are the more difficult
16 it is to get the parking on it behind the buildings and still get the retail up front. We articulated
17 that in these buildings here where in one way the greatest amount of retail development was
18 actually being able to be applied here with a mixed use building that had surface parking on it or
19 a completely sub-grade parking here. If you have partially sub-grade parking or an above grade
20 podium you can see that the depth of the retail, so the percentage of the retail, is substantively
21 less. So this development is able to be sub-grade parking and get additional retail predominantly
22 because the residential on top of it is able to pay for that sub-grade parking. The retail isn't
23 really paying for it it is just being able to be justified through the residential development. We
24 are also needing to use all of the mixed use to get that additional retail or the additional
25 residential. We are having to use the reductions of the parking requirements for mixed use
26 development in considering that. So what we have really looked at on the small sites is that you
27 can in some instances achieve a .25 but that more predominantly you are going to get somewhere
28 around 15 percent floor area ratio. Now if you have a maximum that is higher people will have
29 different choices to make for developing.
30

31 Commissioner Keller: Do you mean a minimum that is higher?
32

33 Mr. R. Williams: Yes, a minimum that is higher. If you have a minimum that is higher you are
34 going to probably start to restrict or minimize the number of parcels that you are going to see
35 change over time. The difference instances that you have when people are considering whether
36 or not to redevelop their parcel is how much retail do they have now on the site but also what the
37 quality of that retail space is. If it is very deep where some of the parcels are completely covered
38 in retail you are going to see a reduction in retail space but it may actually be that you will get
39 higher per square foot rent because that deep retail space, and we have studied this in depth in
40 Mountain View, the first 50 feet or so is quality retail space and everything behind that is not
41 really considered very good retail space. So the deeper retail spaces aren't really sought after
42 and are more of a liability. You are just paying for extra square footage so what you will find are
43 the rents actually go down. The quality of the space which is really the height of the space and
44 the light and the design of the signage and the design of the awnings and the whole frontage and
45 how you enter it from parking, etc. is really the greatest thing that dictates how much rent you
46 get. So you are getting a higher quality retail space but maybe less. What you will find is that if

1 somebody has to provide additional retail space my anticipation is that you are not going to see
2 those parcels change over. So there will be a lot less change and eventually those retail spaces
3 will become of a lesser grade and a lesser grade and a lesser grade and then you are going to
4 want to see them change and you are not going to be able to without changing the zoning code
5 again because they are just going to deteriorate. Unfortunately along El Camino Real you have a
6 lot of retail spaces that are substandard so you are getting secondary uses and tertiary uses. You
7 are not really getting the quality retail spaces that the neighborhood that is behind it is really
8 looking for. So my anticipation on small parcels is that if you enlarge the floor area ratio
9 requirement just asking or requiring more retail doesn't mean you are going to get more retail. It
10 just means you have a regulation that requires more retail. You may actually get more retail in
11 smaller pieces if you allow more change to occur over time along El Camino Real or other
12 corridors. That is different in Downtown and the whole mechanism strategy changes there.
13

14 My greater fear actually is that on large parcels that you are going to have even greater
15 restrictions. What happens on a large parcel is as the Diane Chien just mentioned is on a deep
16 site with very little frontage you have a fairly large floor area ratio requirement for retail but
17 most of the site isn't actually very good retail site. It can be a 60,000 square foot parcel as she
18 described which is 150 by 400 feet and it can go to the other extreme like the Hyatt Rickey's site,
19 which maybe had a little tiny bit of good quality retail frontage along El Camino Real, but the
20 rest of the site would never have been good retail. If you would have envisioned that whole site
21 and said it needs to be 25 percent retail you would have had acres of retail that wouldn't have
22 been very high quality and probably wouldn't have been built ever. It would have been left
23 vacant or just been maintained as was.
24

25 Although I think that some retail is reasonable I think that you need to balance that. We looked
26 at a wide variety of mixed use developments up and down the El Camino Real corridor and
27 found that predominantly in a mixed use component particularly on larger sites, deeper sites, the
28 amount of floor area ratio for retail is down at around seven, ten or 12 percent. In certain
29 instances it reached 15 so we thought that 15 percent was a good threshold to reach particularly
30 on the larger parcels.
31

32 So in kind of summarizing it all up my concern with requiring additional retail floor area ratio in
33 the goal of achieving more retail may in fact not really work because you might have less sites
34 turning over and so less overall retail in the end.
35

36 Commissioner Sandas: I don't know if this qualifies as a clarifying question. I am going to try
37 to make it if it's okay?
38

39 Chair Holman: Are you through with that portion?
40

41 Mr. R. Williams: So I think that on small sites the reasons are different than large sites but I
42 think that the rule still applies on either the small or the large sites.
43

44 Commissioner Sandas: Okay. Here's the question. Is 60,000 square feet a large site or small
45 site?
46

1 Mr. R. Williams: It is kind of a medium moderate site. But I just kind of was doing the math on
2 it.

3
4 Commissioner Sandas: I guess I was just wondering being that a site like that might be deep,
5 400 feet back, is there an opportunity in terms of retail or mixed use for almost a shopping center
6 not like Town & Country or Stanford Shopping Center but being that it goes in deep is there a
7 way to develop something that is not exactly street front, El Camino front, but goes back in and
8 is inviting?
9

10 Mr. R. Williams: The problem with that is that retail wants street frontage. If you can't be seen
11 from the street and you are hidden behind there are very few instances that retail succeeds when
12 hidden behind either other buildings or they are going to ask for the buildings to be pushed back
13 and the parking be pushed to the front which is something we have been trying o fight for the last
14 five years. So I think that's the push and pull with the retail. The bigger sites are actually more
15 problematic in that instance because when you get to the bigger retail shopping then they really
16 want to push the parking to the front and keep the buildings to the back. So I think that all in all
17 that in the CS and CN zones I think that the floor area ratio around .15, this doesn't limit them
18 from achieving more if they can balance that, but I think there is a threshold in there where you
19 start eliminating the ability to have a viable project. Retail is really now considered more of an
20 amenity to a mixed use project and is underwritten by the residential development. It is not the
21 moneymaker in the project.
22

23 Chair Holman: Commissioner Lippert.

24
25 Vice-Chair Lippert: Samir had a question.
26

27 Commissioner Tuma: Rick, I don't know if there are any parcels in these areas that fall into this
28 but are there any very wide parcels that have a lot of good frontage that aren't necessarily as
29 deep but still would be larger parcels that would instead of looking at the size more looking at
30 dimension?
31

32 Mr. R. Williams: Almost all the parcels in most of the corridors are narrow and deep or
33 proportionately have less street frontage than they do depth. I can't think of one.
34

35 Vice-Chair Lippert: I was going to make a point which is the parcels that have secondary access
36 and the example that I can think of are El Camino and El Camino Way. You have a street
37 frontage on El Camino and you have a secondary access in the back. On the Barron Park side
38 you have El Camino Real and then you also have an alley, which nobody owns that very well
39 could be a secondary access. Then you have corner lots where you have frontage and then you
40 have secondary access off of a side street which have opportunities to actually have larger
41 amounts of commercial. Is that not so? Larger amounts of retail because of the fact that your
42 access would not need to be out – you wouldn't have to sacrifice the visibility along El Camino
43 Real for the access to the site.
44

45 Mr. R. Williams: It benefits you more because you don't have the driveway access. So there is
46 an efficiency in not having the driveway access at the back of the site. However, the real

1 mathematical equation is how many parking spaces and what is your footprint? So even in an
2 alley configuration you can only park a certain proportion relative to the amount of retail you
3 get. You get more efficiency in those and I would assume that based on that unique
4 circumstance of a particular parcel you would be able to bump up the proportion. So that is why
5 it is a minimum not a maximum that we are suggesting. However it still comes down to you get
6 a certain amount of retail, you can park a certain amount on the site and at a standard parking
7 ratio for a straight retail development that isn't able to take into account a lower parking ratio for
8 mixed use development you are still going to end up with about a .25 to .3 maximum FAR within
9 a straight retail/commercial development. That is just because of the way the math works.

10
11 Mr. C. Williams: Can I just add to that? I did want to emphasize what Rick said about what we
12 are talking about is minimums not maximums. These zones typically have a .4 FAR maximum.
13 If there is a good site that it does work on it and there is a good place where an alley helps it out
14 and they can get more, more is allowed, but to try to legislate that is what our concern is in that
15 we are going to legislate discouraging good retail from happening in a lot of these sites.

16
17 Chair Holman: Commissioner Keller.

18
19 Commissioner Keller: Yes. I was wondering about the discussion that was made earlier by Mr.
20 Williams and that is the issue of the current use. You had talked about the achievability of the
21 amount of retail and thought that the achievability was .15 or .25 depending on the nature of the
22 environment. What I am wondering is if they currently have more than that amount then clearly
23 that amount is achievable.

24
25 Mr. R. Williams: No. It would be considered substandard and they aren't meeting their current
26 zoning regulation. Frequently the parcels with alleys behind them almost don't have any
27 parking. They might have one or two spaces and so they are substantially under-parked and then
28 the neighborhood is complaining about those not being parked onsite. Some of those spaces the
29 building owners or landowners will probably have to do a little bit more hard evaluation as to
30 whether or not they want to change over their site because they actually have a benefit above and
31 beyond what the existing zoning regulations are.

32
33 Commissioner Keller: So what I am wondering is to the extent that the site is currently
34 satisfying the zoning regulations in terms of parking would it then make sense to say that a
35 minimum is appropriate? Or to make adjustments where they are nonconforming according to
36 current rules? I am sort of wondering how to play with that. Are there any sites like this that
37 have more than 15 percent that are parked?

38
39 Mr. R. Williams: That are conforming?

40
41 Commissioner Keller: Yes.

42
43 Mr. R. Williams: I am sure there are retail sites that have say .25 maybe .3 floor area ratio that
44 just meet current standards. My anticipation is .25 is kind of the threshold and depending on the
45 shape of the site if it is the absolute perfect dimension site you might get up to .3. I don't think

1 you are going to get far beyond that. You are not going to get up to .4 with all retail uses
2 because you are not going to be able to park the site there I am just convinced of it.

3
4 Commissioner Keller: I am not suggesting .4. I am just wondering if based on whatever is there
5 now and the idea that basing it on whatever is there now and at least if they can achieve that then
6 it might make sense to say well, that is existing proof.

7
8 Mr. R. Williams: But that allows you to achieve that it doesn't allow you to do anything else on
9 the site. You can't then provide additional residential units on the site. You are just providing
10 for the retail space on a single story generally maybe a two-story building. So there isn't a
11 mixed use component that you are achieving on that. It is just a straight retail space and in all of
12 these zones you can do a straight retail project and that is what you would end up with.

13
14 Vice-Chair Lippert: What is Fry's? What do they run?

15
16 Mr. C. Williams: What are run as far as what?

17
18 Vice-Chair Lippert: Percentage of FAR.

19
20 Mr. R. Williams: Fry's today or a new Fry's?

21
22 Vice-Chair Lippert: Today's Fry's.

23
24 Mr. R. Williams: It is low it is probably less than .2 FAR I would imagine.

25
26 Chair Holman: Are you referring to the Fry's that we have here?

27
28 Mr. R. Williams: No, the new Fry's.

29
30 Vice-Chair Lippert: Today's Fry's. The reason that I bring that up is it is the antithesis of what
31 we are talking about. It is a site that is remote, it is big, it is deep, and it is in the back, not easily
32 visible from El Camino Real.

33
34 Chair Holman: While they are looking for that Commissioner Garber you have a question?

35
36 Commissioner Garber: I need their attention.

37
38 Mr. C. Williams: This is going to be all of the buildings out there not just the retail space. The
39 retail space is limited to 60,000 square feet. If you take that over the whole site I am sure it is
40 probably .15 or less. If you take all of the buildings that are out there including all of the
41 warehousing and all that kind of stuff it is probably going to end up being .35.

42
43 Vice-Chair Lippert: So it is in 25 percent range?

44
45 Mr. R. Williams: But it is not all retail.

1 Chair Holman: The warehousing though is supporting the retail, right?
2
3 Mr. C. Williams: Some is but it is counted differently. It is really warehousing so it is a
4 different parking rate than the retail portion.
5
6 Mr. R. Williams: Yes.
7
8 Mr. C. Williams: Fry's is unusual.
9
10 Mr. R. Williams: Today if they were building a Fry's they would want substantially more
11 parking.
12
13 Mr. C. Williams: You are going to see sites like that I think you are going to them back at some
14 point in time with a proposal for either an area plan, a comp plan, or a rezoning so we can more
15 specifically consider what to do on a site like that that is more less an anomaly.
16
17 Vice-Chair Lippert: I will save my comment until later.
18
19 Chair Holman: Commissioner Garber.
20
21 Commissioner Garber: So an example of what you are talking about supporting a, I am not sure
22 where a health club falls in there, but for instance the site that is just down the street from Fry's
23 the new health club has to provide structured parking below grade as opposed to above grade in
24 order to support the use that they have. It is actually providing the required amount of parking
25 but that is significantly larger than would otherwise be required, correct?
26
27 Mr. R. Williams: I am not familiar enough with that particular site.
28
29 Mr. C. Williams: It is requiring a substantial amount of parking to accommodate the health club.
30
31 Commissioner Garber: They are then structuring that parking.
32
33 Mr. C. Williams: They are structuring it in order to get the health club size that they need.
34
35 Commissioner Garber: So what I am hearing Rick is that your recommendation here or what
36 you are trying to [emap] is the recognition that because the future is unknown and because there
37 are things that could stand to be better in a number of these areas that have been presented to us
38 in this zone that the wisest course, i.e., your recommendation is to create fairly low minimums to
39 allow the greatest flexibility of that land criteria so that you can have the greatest amount of
40 flexibility for the uses that go in there depending on how the economics of that particular area
41 falls out. By creating that flexibility you allow for some sites that are going to have greater
42 opportunity for retail, to create greater opportunities in retail, and other sites in the same zone not
43 having to create special circumstances within the zone to accommodate them so there may be
44 other sites that are better for the residential. By having those minimums those particular sites
45 could have greater residential versus retail and you could accommodate all that.
46

1 Mr. R. Williams: That is correct.

2
3 Commissioner Garber: At which point you are really relying on the market forces to as well as
4 the physical constraints of each site to determine what the final outcome is. That is what I am
5 getting.

6
7 Mr. R. Williams: That is right.

8
9 Commissioner Garber: Thank you for that clarifying question.

10
11 Chair Holman: I have a question. Commissioner Sandas do you have a question?

12
13 Commissioner Sandas: No.

14
15 Chair Holman: I struggle with this one greatly. There are a lot of things in theory and a lot of
16 things are relative and a lot of things are certainly subjective. So I guess I would like your
17 comment on my query which is if we are looking at redevelopment of sites to, and I am going to
18 place everything in the theoretical without trying to pass any judgment on it but just put the
19 issues out there, to focus on redevelopment so that we get theoretically better buildings so we
20 have a better avenue along El Camino. That we will theoretically get more vital retail than what
21 exists theoretically now. One might also say that while theoretically the buildings that exist may
22 not all be as El Camino worthy let's say following the El Camino Design Guidelines. They
23 theoretically provide services and retail to Palo Alto and contribute theoretically to its
24 uniqueness whereas new development or redevelopment if it had to satisfy the economic criteria
25 if I understood you correctly is going to charge higher rents in order to be able to support the
26 redevelopment. So then one could presume that we could lose a number of these theoretically
27 well-serving businesses that we have on El Camino. That is my struggle and it has been for the
28 weeks that we have been considering this certainly the last couple of weeks that we have been
29 looking at this. So how would from your perspective, the three of you, how would you quantify
30 say the bicycle shops on El Camino that are unique, independently owned, they are near where
31 you live, they are locally owned businesses and locally owned businesses put more back – there
32 are studies that prove that local businesses put more back into the community than do chains.
33 And there should be a mix of local and chain you need both, right? So how do we achieve better
34 theoretically buildings for El Camino in keeping with the El Camino Design Guidelines without
35 ending up with a series of chain stores that can pay the higher rents and thus eroding,
36 theoretically, the quality of life and the unique character of Palo Alto and those independent
37 businesses? That is my struggle that is my question.

38
39 Mr. R. Williams: We actually struggle with that a lot also and I think one of the keys is to
40 understand that as every community is tweaking the regulations and trying to get commercial
41 revitalization, which is probably the most difficult thing to do, the retail piece of the equation of
42 community revitalization is the hardest of all the equations. These relatively minor
43 modifications to the regulations will not trigger a complete change in the business atmosphere
44 and the streetscape atmosphere in the entire strip along the entire length of the El Camino Real.
45 It just doesn't happen. Every single parcel has its own special unique character with its own
46 special property ownership issues and they have their own business that they are working with

1 themselves and they own the building or somebody else is been there for 20 years and they are
2 getting ready to retire and their shop is going to close regardless of what is happening. There are
3 some communities that end up with six, no offence to anyone, six wig shops along a stretch and
4 we know that that is one of the lowest economic return uses and not very many communities
5 need six of them on the same block. There are many communities that I have seen that have
6 them or have a row of churches, also a singular good use but you don't want every storefront to
7 be a church.

8
9 Chair Holman: Thus the issue of quotas as well that I brought up.

10
11 Mr. R. Williams: Every single parcel has its own variation so that I am sure that even in the
12 hottest market that you are not going to see a really extensive amount of turnover of parcels and
13 redevelopment. All of these parcels are very small so each one is an arduous process to
14 redevelop. Many of them won't change for five, ten, 15, or 20 years and they are going to
15 change for many other reasons besides the regulations.

16
17 When somebody does decide to change over and redevelop their property then you don't want
18 them to hit a bunch of roadblocks that keep them from doing it in a realistic way. So I have
19 never in all of my little zoning experiences in Mountain View or South San Francisco or any
20 other location I have never seen these types of modifications immediately trigger a complete and
21 total change in the way development has treated a street. There are incremental improvements
22 and generally on these smaller parcels which people have anticipated changing for an extensive
23 period of time but not on a large percentage of parcels, not even on ten percent of parcels over an
24 extended period of time. I don't have that fear that there is going to be a huge amount of change
25 because of what I can perceive of as a relatively incremental regulatory change.

26
27 Chair Holman: Curtis.

28
29 Mr. C. Williams: I could take my shot at that question. I think to me currently we have mixed
30 use allowed in these zones. We don't have any minimum on the amount of retail. When we put
31 together this proposal over the last couple of years we started out saying you have to have some
32 retail. We started out at 900 square feet or 1,000 square feet is what we had been talking about
33 for a while now. Because of the Council's direction to try to encourage more retail we said well,
34 let's get away from that and let's try to get some number that is more substantial but how can we
35 do that without going to far? So I think we have come a long ways. This takes it a long ways
36 towards preserving the retail a lot more than now. Right now you don't see that wholesale
37 change taking place but I think what you will get out of this is when that change does take place
38 that there will be better design, better pedestrian orientation, a better mix of uses and we will
39 preserve more retail than we probably could have under the current regulations.

40
41 So I want to go back to the fact that this whole ordinance revision that is before you is something
42 that we had a long wish list of things that we would have like to have done. I know others have
43 their own wish lists and for various reasons we have tried to focus down on essentially three
44 things. One is taking away the completely residential option in the commercial zones so that we
45 do have a better opportunity to do retail. Second, is to provide just a more realistic set of
46 standards for the mixed use criteria because they are skewed in a way right now that particularly

1 when you have commercial on either side of you you are treated like a residential use. Then
2 thirdly, we have added this hotel component to try to encourage hotels primarily for the revenue
3 potential that they have. So we have really focused our attention on those areas and I guess my
4 encouragement to you is to try to do that too and recognize that this incremental. We use that
5 work quite a few times with this Zoning Ordinance Update that these things are incremental.
6 Let's try to have this minimum retail percentage.
7

8 I wanted to add that Chair Holman has asked a few weeks ago and we didn't get to bring this up
9 last week. There are three mixed use projects that have been approved in the past year-plus
10 along El Camino. One is in CS zoning and the other two are in CN. One project, which is the
11 Old Pro site, has a retail component of nine percent, .09 FAR, for that and it also has some first
12 floor office. So the entire first floor is .20 retail on that project. The other two are the sort of
13 side-by-side 1795 and 1805 El Camino Real. They both have first floor entirely retail, they are
14 each .15 FAR retail and then they have a second floor of office that gets them to the .40
15 maximum with .25 office on top. They each have two residential units above those. I think the
16 architect will tell you on those projects that is the kind of a mix that is necessary to make each
17 one of those components work. That is an example of what I think have been three very well
18 accepted projects in terms of using small sites in ways that are attractive and serve multiple
19 purposes in terms of the residential. These are doctor's offices, dentist offices.
20

21 Vice-Chair Lippert: What about El Camino Way?
22

23 Mr. C. Williams: El Camino Way I don't have the numbers on that.
24

25 Vice-Chair Lippert: You know the one I am talking about, the one that has Starbuck's and such.
26

27 Mr. C. Williams: Every project has Starbuck's that doesn't identify them. But, now I don't have
28 those. I was just thinking of the ones in the last year that have been approved. They aren't built
29 yet. So I think we are seeing that that has been working and if we required more retail, maybe if
30 we required .15 on that first one we would have gotten a little bit more retail on that site. I don't
31 know if that would have worked or not. That is sort of where we are. So we are comfortable
32 with that as taking a good step forward in trying to assure that we do have reasonable first floor
33 retail on these mixed use projects. Whereas right now we have no stipulation as to how small
34 that retail space.
35

36 Chair Holman: Commissioner Garber I think you had your hand up.
37

38 Commissioner Garber: Yes, just to clarify really your question which I enjoyed hearing the
39 discussion on. Once again let me test what it is I think I heard there which was that the dynamics
40 of the actual ownership and current leasing of the spaces in these zones has greater impact over
41 their current use than does a change in zoning. I mean how those individuals are going to be
42 using or planning or living in those spaces has greater impact in the near term than a change in
43 zoning would in the long term. So over 15, 20 or 25 years obviously the zoning is going to have
44 a much broader impact because those people have changes and they will have to comply. Near
45 term five years, ten years, probably 15 years or whatever the sort of lifetime span or in this case
46 30 years over here, if somebody does own it for 30 years presumably they will feel the impacts

1 but then a lot of other things are going to change as well and not the least of which is the various
2 ebbs and flows of the economy. So what I was confirming once again is that the dynamics of the
3 individual ownerships, leases, etc., have greater impact in the short term than the zoning does in
4 the long term. Okay?

5
6 Chair Holman: Commissioner Lippert.

7
8 Vice-Chair Lippert: What about the idea of rather than – the idea here is what we want to do is
9 we want to incentivize this in order to get better quality commercial. So if we had a minimum
10 amount of commercial FAR that they had to build but then on top of that said there is another
11 sort of bump up on the amount of commercial you have to provide in order to make it a mixed
12 use building because what I hear you saying is that once you begin to add the other uses of either
13 office or residential the parking really has to go underground so that you have more opportunities
14 on the ground floor to increase that retail space. So what about having two thresholds? You say
15 if you are going to just develop it as simply retail you have to build a minimum and then if you
16 are going to make it a mixed use building then you have to increase that retail FAR another let's
17 say 25 percent.

18
19 Mr. C. Williams: Let me clarify first of all that this minimum retail only applies to mixed use
20 right now. We are not suggesting – we are essentially doing that and saying right now if you
21 want to go out there and have retail we can't really tell someone if they have a .40 retail right
22 now and they want to put in a .25 retail that they can't do that especially because the .40
23 probably didn't meet the parking requirements and for them to put the .25 in they will meet the
24 parking requirements. So what we are essentially saying though is if you want to do mixed use
25 then you have to have this minimum amount of retail. I don't think like these numbers here
26 these are not the below grade parking this is surface parking. Many times I think we see on
27 maybe the bigger sites you do get that chance to do the below grade parking and the small sites
28 are too constrained to make that work. So sites like this have to park the residential also at the
29 surface and that is one of the reasons why when we talk about potentially limiting the residential
30 unit size it is a problem because if they could theoretically in the FAR get four residential units
31 but they can't park four residential units and it is not financially worth it for them to do two units
32 at half the size to make it work because they still have to park it then that's detrimental.

33
34 Vice-Chair Lippert: But they could go in and they could develop the site as multi-family
35 residential without any commercial component couldn't they?

36
37 Mr. C. Williams: Today?

38
39 Vice-Chair Lippert: Yes.

40
41 Mr. C. Williams: Today they could if they could park it.

42
43 Vice-Chair Lippert: Right.

44
45 Mr. C. Williams: It is tough to park on a small site so it ends up being a very small project.

1 Vice-Chair Lippert: But if the residential component is paying for the underground parking
2 somebody could come in and say I am just going to put in underground parking and do all multi-
3 family residential and get my .60 FAR, which would more than adequately pay for the site. The
4 idea is then we lose the retail component. So why not prohibit residential unless it was a mixed
5 use building?
6

7 Mr. R. Williams: That is what we are doing.
8

9 Mr. C. Williams: That is what we are proposing. The use column in the table we have changed
10 it to essentially cross out the residential by itself and put only multi-family residential when it is
11 part of a mixed use. That is sort of step one. Step two is now if that is the only scenario you can
12 have residential what we want is a minimum of retail. So .15 and I think we have said .25 in
13 some other areas.
14

15 Vice-Chair Lippert: That is an about-face of what Council gave direction back in the 1980s
16 when we lost Rodolfo's and we lost Cameo Club that way.
17

18 Mr. C. Williams: That was when these folk's site was rezoned to multi-family and many, many
19 other sites. Fry's was at a time when we were trying to look for more residential.
20

21 Mr. R. Williams: It wasn't that long ago because the El Camino Real Guidelines actually one of
22 the things that we had to do in that was develop design guidelines for residential along El
23 Camino Real. So there was design guidelines setup for that interface so it would better because
24 there is the one apartment project, the Montage, that is actually an all residential project on a key
25 corner and turned its back on El Camino. That is when we started getting involved with the
26 design guidelines. So if you think about the way this has come full circle these regulations are
27 more restrictive towards encouraging retail today than what you currently have in the regulation
28 because you could do a residential project today. So we are adding more retail required just
29 because of that.
30

31 Mr. C. Williams: It is more restrictive in terms of requiring more retail. Yes.
32

33 Chair Holman: Commissioner Keller I think you were next.
34

35 Commissioner Keller: First let me ask a question I alluded to earlier since Don is still here. To
36 what extent can we require retail in those properties, which are listed in the Housing Element as
37 zoned for mixed use?
38

39 Mr. Larkin: Well, I admit I don't know the specific answer. We would have to allow housing
40 and that is clear. Under the state law whether or not we can require them to be mixed use
41 projects is less clear. We would probably do that well I would have to look at that more
42 carefully than I can do it here but my guess is that if we have sites like in the Downtown area
43 where we have a ground floor retail component requirement then we would be able to enforce
44 that requirement. One of those sites is but I am not sure about the other one.
45

1 Commissioner Keller: So one of them is the 5-21, 650 Alma and Forest I had the impression we
2 were doing something with 900 to 925 High which is not El Camino Real and 900 Alma which is
3 doing something else too.

4
5 Mr. Larkin: The 800 Alma is where there will be something else.

6
7 Commissioner Keller: Yes, okay. So would it make sense for us to think about not exempting
8 these units from the ordinance that we pass in terms of mixed use?

9
10 Mr. Larkin: I don't think that we were contemplating exempting those from the ordinance.

11
12 Mr. C. Williams: Council's direction was excluding housing opportunity sites from that
13 restriction and that is what we have written in here. I guess my point would be you are talking
14 about two sites, we know what they are, it looks like both of them probably would be proposed
15 as mixed use projects anyway but I wouldn't want to put something in the zoning ordinance that
16 essentially addresses two sites. We are going to do our Housing Element Update at which point
17 we will have a whole list of new sites and we can consider at that time how we want to designate
18 the zoning.

19
20 Commissioner Keller: We have this exception that we are contemplating putting in now. The
21 question is does it make sense to have that exception or does it make sense not to have the
22 exception and just basically have the precedent so that the mixed use means mixed use and if
23 anything is added to the Housing Element subsequently then it is our intent for those to be mixed
24 use in the future, therefore we don't have this problem. That is my concern.

25
26 Mr. C. Williams: I understand that. I think number one Council's direction was to exclude the
27 housing opportunity sites but that doesn't preclude you from recommending something you think
28 is a better solution. Secondly, I am just concerned that you put something in the zoning
29 ordinance that precludes looking at housing opportunity sites. There maybe sites that are zoned
30 commercial that for other reasons are not good retail sites and they could be listed on the housing
31 opportunity sites not as a mixed use project but whichever way the Commission wants to go on
32 that. Like I said it is only two sites and it probably doesn't really matter which direction you do
33 it and then we are going to have to have the discussion again when the Housing Element comes
34 up.

35
36 Ms. Caporgno: As I said before when this was developed and we identified them as a mixed use
37 we were anticipating that there would be a mixed use zoning district. Since that hasn't occurred
38 we don't know if the state would even, the state approved this with the understanding that the
39 mixed use be exclusive requiring housing. Since that isn't going to be the case in our next
40 Housing Element we won't have a mixed use zoning district that would require a housing
41 component unless we figure out some mechanism for that. So we may not be able to do
42 something like this in the next Housing Element anyway.

43
44 Commissioner Keller: On the Comp Plan Update process that problem could possibly be....
45

1 Ms. Caporgno: That is what I said before. We may be able to do something with a mixed use
2 designation in the Comprehensive Plan and say that the mixed use designation requires a
3 component in any site that is designated in the Comprehensive Plan as mixed use would have to
4 have a portion of the development would have to be housing as opposed to a mixed use of let's
5 say office and retail.

6
7 Commissioner Keller: Okay. Earlier you talked about parking and that there is a parking
8 requirement for retail and then there are parking requirements for other things. My
9 understanding is that there is some principle that says that the overall parking requirement might
10 be less when you have mixed use. We are not at this juncture planning to do adjust the parking
11 requirements but I think that is something we are doing later on, is that correct?

12
13 Mr. C. Williams: Yes, that is correct.

14
15 Commissioner Keller: So therefore while what we do may not fix the problem at some point in
16 the future when we revisit the parking requirements the parking requirement for mixed use will
17 be diminished and therefore the impact of residential and retail won't be exactly the sum of the
18 two as would be required now.

19
20 Mr. C. Williams: Potentially. I think realistically we feel like we probably will not suggest a
21 reduced rate for mixed use parking. We will leave in tact what we have now which is a
22 provision which allows up to 20 percent reduction for mixed use but I think we have a couple of
23 adjustments for that that we may propose. One which is more stringent is I think we will include
24 a requirement that we have essentially a traffic engineer study that shows the hours of demand
25 for each of the uses and makes that comparison that justifies that rather than right now it is
26 basically right now if we are doing mixed therefore we should get a 20 percent reduction. I don't
27 think there has been a lot of scrutiny of that. That is one thing. The other is we talked about we
28 would like to suggest at that point but it is not on the table now that this joint use parking be
29 allowed when there are ten or more parking spaces required on the site. Right now it is 30 or
30 more so you have to have a pretty big project before you can even take advantage of that.

31
32 Two of these El Camino projects are right next to each other and we are able to get some
33 exceptions to do that but we need to have that discussion and it is not an easy issue to address at
34 this point. We will be back to you with those discussions.

35
36 Chair Holman: Commissioner Garber, I think you had another question.

37
38 Commissioner Garber: A couple. Some criteria of the types of housing that are required are
39 written into the zoning ordinance that 15 percent has to be affordable, etc. but not all of it, is that
40 right? I mean there are other parts that are held inside the Comprehensive Plan that are held as
41 part of requirements that are either county or state affected etc. which are then applied over the
42 zoning. Is that correct?

43
44 Ms. Caporgno: Actually yes the below market rater program is only in the Comprehensive Plan.
45 There is reference to it in the zoning ordinance but the program itself is in the Comprehensive
46 Plan.

1
2 Commissioner Garber: So I am just wondering to some of Commissioner Keller's interests
3 which I share as well, if the most effective way to get at some of these affordable or very
4 affordable or however we would like to refer to these housing issues should we be looking at
5 other things other than specifically the zoning to try and effect some of those policies more
6 directly? It may be that the way we affect those isn't specifically through this rezoning effort
7 that we are focusing on today but maybe I know that you guys are going to be looking at the
8 Comprehensive Plan and there may be opportunities in there for us to address this far more
9 directly than we can really through this particular tool.

10
11 Ms. Caporgno: I think so. I think yes.

12
13 Commissioner Garber: Okay. I am going to come back to something else and that is I had in my
14 notes when Commissioner Burt was making his comments last week that he had also mentioned
15 the auto dealership overlays but I don't have any reference in my notes as to why he raised that.

16
17 Mr. C. Williams: He and I crossed that off the list when we met. I think he said this has already
18 been answered and crossed it off. So I am not real sure what that issue is.

19
20 Commissioner Garber: I wasn't remembering what it was.

21
22 Mr. C. Williams: For your information we have some language in here that mixed use is not
23 allowed on an auto overlay site.

24
25 Chair Holman: I think that is why it wasn't an issue anymore because we already had that
26 discussion I think.

27
28 Mr. C. Williams: That is right. Yes.

29
30 Commissioner Garber: So my third question here really comes back to the CN zone districts and
31 that is specific to Midtown and Alma Plaza. I know that the City had looked at introducing
32 residential into those areas in the past. If it is not in the deep recesses of your brain could you
33 maybe refresh some of the topics to us as to what some of the dynamics of that issue is?

34
35 Mr. C. Williams: Thank you for bringing that up. I wanted to respond to Ms. Powell's
36 comments. Yes, it was in 2001 when the ground floor retail and all the neighborhood serving
37 use discussions happened. There were provisions that residential not be allowed in each of the
38 Midtown or Charleston areas. Again, our wish list included trying to somehow work that in
39 because there are discussions even in the Comprehensive Plan about potential for exploring at
40 least the potential of mixed use in those areas.

41
42 Commissioner Garber: Meaning retail plus residential?

43
44 Mr. C. Williams: Right, it was specific about that. So our initial proposal did include Midtown
45 and Charleston and we went out and met with neighborhoods. There was quite a fractious divide
46 if not a strong opposition to changing what had at that point only been like that for a few years.

1 It was a hard issue to get past so again at this point we think that is a battle to try to argue that for
2 Midtown and would take an awful lot more series of community meetings and such to try to
3 address that. We felt it was better served to leave that in place currently.
4

5 Commissioner Garber: Do you recall what some of the issues were that were being raised by the
6 community?
7

8 Mr. C. Williams: Some of them were parking which was definitely an issue of where you park
9 the additional residential. Other I think had to do with as somebody mentioned adjacent noise
10 and odors and things like that. We think those can be addressed through performance criteria for
11 the most part and the parking criteria you would have to [meter] you are limited by that but by
12 the same token that could extend this process quite a bit to try to force that issue. We didn't
13 know Ms. Powell before but hadn't had anyone really arguing for providing that residential
14 component in there.
15

16 Commissioner Garber: Aside from some of the community concerns that were raised do you
17 recall if there was any looking at the actual parcel sizes and running some calculations to see if
18 you could actually create a scenario/prototype that would actually work and satisfy the parking
19 requirements, etc.?
20

21 Mr. C. Williams: I'll ask Kevin.
22

23 Mr. Kevin Gardner, Consultant: We didn't really look at Midtown too specifically.
24

25 Mr. C. Williams: We did recognize that we did not want to do like what we are doing on El
26 Camino and suggesting any increases that we wanted to recognize that that was a different type
27 of neighborhood commercial than on El Camino and try to make that distinction. I don't know if
28 we ran any prototypes for that.
29

30 Vice-Chair Lippert: The difficulty with the Midtown area though is that the parking from parcel
31 to another basically runs into each other. A lot of property owners rely on each other as access
32 from one site to another in order to get through all of the parking. So even though it looks like it
33 is one large ocean of parking in fact that is a variety of parcels there that people are actually
34 traversing. Some of those sites can't even support the parking on their own site they have to rely
35 on the fact that there is overflow and spillage onto the adjacent property.
36

37 Commissioner Garber: Some of them have marked the parking places as to who owns them.
38

39 Vice-Chair Lippert: But that is not really....
40

41 Commissioner Garber: I am not saying it is an answer I am just offering it as another symptom.
42

43 Commissioner Keller: Would it be fair to say under Prop 90 if we do not change the restriction
44 on residential within Midtown and Charleston then we are not liable for subsequently allowing
45 residential if there is a decision to do that and therefore it might make sense to do nothing now
46 regarding that and revisit it sometime subsequently?

1
2 Mr. Larkin: I would hate to think that way but it is probably true.

3
4 Chair Holman: Commissioner Lippert did you have another question?

5
6 Vice-Chair Lippert: That was my question regarding the parking.

7
8 Chair Holman: Commissioner Keller.

9
10 Commissioner Keller: Yes, you talked earlier about the idea that we should require a 15 percent
11 FAR in certain circumstances and 25 in other circumstances based on the zoning. I think part of
12 the various kinds of restrictions and part of the numbers change depending on what zoning
13 exists. What my main question regarding that is you talked about that is the minimum that is
14 required and that in certain circumstances more might be possible. Considering that at least
15 currently residential use has the highest bang for the buck so to speak for the property owner, and
16 office is probably second although that was reversed maybe ten years ago, and retail is the lowest
17 and I am not sure whether that was true ten years ago or so. What I am wondering is based on
18 those economics that retail is likely to stay remunerative to the property owners do we have an
19 expectation that the property owners would provide more than that 15 percent if it could be
20 designed in such a manner?

21
22 Mr. R. Williams: In the same way that I think that the property ownership and who is
23 developing it and what their particular interest is that although everybody thinks that every
24 developer will always go for the option which makes the most money that instant I don't actually
25 think that that's necessarily the case. I wouldn't have thought that these two projects along El
26 Camino Real would have made more sense to put in office than something else but those
27 particular developers were also doctors or dentists that wanted their own offices. So is that the
28 highest and best use? Probably not. Did they put in their own office space? Yes. Would
29 somebody that owns a piece of property and wants to put in a restaurant short-ship themselves
30 for the restaurant that they dream about? Probably not. They would put in some residential
31 above but they would design it so that the restaurant works for them. So to say that every single
32 development is going to be done exactly the same is not really the case. So you get a wide
33 variety of ways that people strategically develop their property and that is why I am not overly
34 concerned about them all developing exactly the same way or all of them having chain stores or
35 all of them having the maximum amount of residential. I think that is really the answer to that.
36 People do things for different reasons.

37
38 Commissioner Keller: I think the two cases you cited are sort of owner-occupied properties. I
39 am not sure whether properties that are not owner-occupied are subject to the same constraints.

40
41 Mr. R. Williams: Particularly on small properties what you will find is that a lot of times they
42 are owner-occupied or owner-developed or developed in conjunction with another owner. So
43 particularly on small parcels you find that there is some sort of a connection or relationship
44 between the property owner, the developer and the use that is eventually going to go in there.

45
46 On the large parcel site I agree that there is a different tendency there.

1
2 Commissioner Keller: I am sorting of thinking about this idea of how much retail we might
3 require. I am wondering about the potential that we require that all of the ground floor space in a
4 mixed use development be retail even if it is more than 15 percent. Does that make sense or does
5 it not make sense? It looks like in the plans you have there three out of the four scenarios
6 include that and the third scenario does not. So I am sort of wondering about let's suppose we
7 say that if you can fit more ground floor space then that ground floor space should be retail. I am
8 wondering how that works.

9
10 Mr. R. Williams: Well, on that particular scenario I would say the reality is the ground floor
11 space is all retail. There is a half level of parking that prevents you from putting retail any
12 further back. So that is in essence the ground floor. So I think in all of those scenarios the
13 ground floor is all retail.

14
15 I think that what happens on a large project you are not going to have the whole entire ground
16 floor retail you are going to have some residential in back that might be at grade. So you would
17 have a retail part and then residential possibly behind it in a more horizontal rather than vertical
18 mixed use. So again it doesn't always apply the same depending on the size of the site or the
19 configuration. However, on small parcels I think you will find that predominantly the ground
20 floor will be retail and there would be something else. The only other things you would end up
21 with are utility spaces, lobbies for the residential above so that you can enter in, parking would
22 be another space that I wouldn't consider retail and once you get to a certain size it is going to
23 flip over and you are going to have a mix of uses that are horizontal as well as vertical. So in
24 those you would have residential on the ground floor or office. We talked earlier about having
25 office space on the ground floor behind retail as being an appropriate use as well. So again it is
26 not always the same.

27
28 Mr. C. Williams: Most of our retail zones have the ground floor retail requirement at this point
29 so it is pretty difficult to do anything but retail on the ground floor as it is with those exceptions
30 that are listed in the code for where there is already an existing office and you can replace that
31 with office. You can have it in those locations but generally if you have retail existing
32 somewhere and you convert it all you can do on the ground floor is retail.

33
34 Commissioner Keller: And that applies to El Camino?

35
36 Mr. C. Williams: It applied everywhere except those CS on El Camino that I mentioned that do
37 not have housing on it. Those do have and that is one of the issues that we point out in the Staff
38 Report. That has flexibility to be developed with office. So all the CN, CD and CC have
39 essentially that prohibition against ground floor office that we think are sometimes difficult
40 because we find locations where maybe it would be good to have some office space but we can't
41 permit it.

42
43 Chair Holman: Maybe it would be helpful in that CS if you indicate how much of that is on a
44 map that might be helpful for us. Then Commissioner Lippert had a follow up too.

45

1 Vice-Chair Lippert: It sounds to me like we are making an assumption that retail space is going
2 to have a series of small retailers when in fact a larger parcel could in fact support a much larger
3 retailer and there would no need to build either residential or as you were suggesting maybe
4 some office space on a ground floor. Is that correct?

5
6 Mr. C. Williams: Yes, that is certainly an option.

7
8 Mr. R. Williams: They don't have to provide any mixed use they can do an all retail project.

9
10 Chair Holman: Commissioner Garber.

11
12 Commissioner Garber: I was just going to offer one more dynamic that will keep things from
13 changing too quickly and that is not to mix my metaphors but I will, an object that is in motion
14 will tend to stay in motion so if Mr. Newton has just invested a sizable piece of cash in
15 something despite whatever outside constraints are acting upon him he is going to look to get
16 that money out before he make a change and that is going to be effective at both a small scale
17 and a larger scale because of the simple reason that cash is hard to garner. The areas where you
18 end up with friction is when somebody is planning a change in an environment that they are
19 expecting and finding out that the environment has changed. At which point there is friction.
20 But those circumstances I would suspect are probably generally few and far between and are
21 manageable on a case-by-case basis.

22
23 Commissioner Keller: One of the things about housing, maybe this is too broad a question but
24 we have talked a lot about the jobs/housing imbalance. In terms of the housing and jobs
25 imbalance one of the issues is that people who work in Palo Alto live elsewhere and we are
26 trying to add housing so that people who work in Palo Alto can live in Palo Alto. I am sort of
27 wondering if there are any statistics of the people who live in Palo Alto how many of them work
28 in Palo Alto? If we add housing do people work elsewhere and therefore they are commuting to
29 Sunnyvale or San Jose or San Francisco?

30
31 Ms. Caporgno: We have some data and it is the census data. We would have to get back to you
32 on what it provides. It is looking at census tracts and census areas. So it is not just within the
33 city boundaries. Generally we have some of the data that we could get back you with on that.
34 Curtis, do you want to add anything?

35
36 Mr. C. Williams: No, I guess my sense is that there is some data not necessarily specific to Palo
37 Alto and that is really a sort of Comprehensive Plan exercise. I guess I am having trouble seeing
38 the relevance of that to the specific zoning issues that we are talking about. I don't want to get
39 into any philosophical discussions about it.

40
41 Commissioner Keller: I will explain why I was asking. In some sense the idea we are thinking
42 about how much – here we are talking about the desirability of creating housing. One of the
43 things that we are doing is encouraging housing in a mixed use environment where we are
44 encouraging retail. The housing there is to encourage the retail in some sense. I think that is
45 what we are thinking of. So I am wondering how much the housing in and of itself is an intrinsic

1 good in this regard in terms of how that – we talked about the housing/jobs imbalance but in
2 terms of the benefits of the housing independent of the retail is what I was trying to get at.

3
4 Mr. C. Williams: I understand that. I think our only answer at this point is that the
5 Comprehensive Plan says that is an intrinsic benefit.

6
7 Chair Holman: I think what I would like to do is we have been at this a little bit over two hours
8 and just take about a seven minute break and come back. We have mostly only covered one
9 topic but it probably the most important and most complex topic that we will address tonight. I
10 think a seven-minute break might be healthy.

11
12 Okay, coming back to our meeting and discussion. I hope we have vetted all the questions and
13 issues about the minimum retail requirement for ground floor in a mixed use development. I
14 think what we will do is end up with a motion of course or maybe more than one motion but I
15 think what we will do is go through the Staff Report where they have highlighted what the
16 recommended changes are to the ZOU for commercial development. If you will look at for
17 instance page four of the Staff Report what we would like to do is focus this on seeing if there
18 are any particular issues. I would like us to really be concise it is 8:30 and we do need to finish
19 this this evening. If we want the advantage of having the City Attorney here we need to get
20 through this and this has to be finished tonight because this has to go to Council to beat the
21 Proposition 90 election issue.

22
23 Mr. Larkin: Just a reminder, the CC and CC(2) district discussions are completed.

24
25 Mr. C. Williams: Not the CC(2), just the CC.

26
27 Mr. Larkin: Excuse me just the CC discussion has been completed so there shouldn't be any
28 discussion of that.

29
30 Chair Holman: Right which includes also we did Town & Country Village as well that is part of
31 CC. Okay. So if we look at again page four of the Staff Report these are highlighting the
32 changes. Are there any issues or concerns?

33
34 Mr. C. Williams: Would you like to just real quickly run this?

35
36 Chair Holman: Sure.

37
38 Mr. C. Williams: So there are five key changes that we have noted. One that we have talked
39 about limiting residential uses so it is mixed use only and no stand-alone residential except for
40 the housing opportunity sites could still be stand-alone residential. Increasing the FAR for hotels
41 to .20:1 although in the CN zone hotels aren't permitted so it doesn't apply there. Allowing up
42 to 25 percent of that hotel square footage to be used for residential condominium purposes.
43 Requiring a conditional use permit for commercial retail and service uses that operate between
44 ten o'clock at night and six o'clock in the morning in CN and CS districts when they are abutting
45 a residentially zoned property. Reducing the front setback along El Camino Real to allow the
46 buildings to come instead of being setback 20 or 25 feet to come essentially up to the sidewalk or

1 close to it and accommodating an eight to 12 foot sidewalk depending on the location. Then the
2 transitional area where height in particular and some daylight plane requirements kick in 150 feet
3 from, we have added ‘an abutting residential property,’ so that if you have a commercial
4 property between the project and residential that it is still 150 feet from the residential so those
5 standards don’t kick in; it is only if you are immediately adjacent to the residential property. So
6 those are the main changes. We have noted that there also are a couple of cleanup items that we
7 have included in the standards for commercial districts as well as just the reformatting of the
8 whole section combining all the chapters into one.

9
10 Chair Holman: So I would invite Commissioner Tuma comments, questions or salutations on
11 any of these points.

12
13 Commissioner Tuma: On the last of those the 150 foot requirement we have changed that to
14 abutting the site. We discussed this a little bit before but I couldn’t imagine a scenario where
15 there is a small sliver of other type of property that intervenes between the site and the residential
16 so it doesn’t actually abut but it is very, very close, an alleyway or some other intervening piece
17 of property, how would that be handled?

18
19 Mr. C. Williams: I think that would typically be addressed through the Design Review process
20 with ARB in a context based criteria that are in here that indicate that there is a unique or take
21 that into account. If it is appropriate to have greater setback or landscaping or whatever the
22 situation is that is best for that situation. It probably depends on the particular project location
23 and where the homes are and those kinds of things to do that. If you wanted to try to do
24 something here to try to address that we could say something to the effect that in no event or
25 these things kick in if you are within say 50 feet of a property line even if there is something
26 abutting.

27
28 Commissioner Tuma: That is the concern because we had a distance before and now we have
29 gone with abutting and maybe we could just make it clear by having a caveat there that some
30 relevant distance.

31
32 Mr. C. Williams: I don’t see a problem with doing that and I would suggest 50 feet so if you
33 have a sliver of land commercial or otherwise or alley or something that doesn’t belong to that
34 residential property that isn’t zoned residential but you are still as close as 50 feet from the
35 residential property then you would have to have those lower heights and daylight plane.

36
37 Commissioner Tuma: To me that makes sense.

38
39 Chair Holman: Why don’t we do this, does anybody have any question or comment on the first
40 one of limiting residential use to mixed use? So the Commission is in support of that?

41
42 Commissioner Keller: I am in support of that without the exception stated.

43
44 Chair Holman: Okay. Do you want motions on each one of these? Would that make it simpler?
45

1 Mr. C. Williams: I would like motions on whatever you need to make a motion on. In other
2 words, if there is not an issue on an item I don't think we need a motion.

3
4 Chair Holman: Are you okay with that?

5
6 Mr. C. Williams: If you have something like that it would be fine to make a motion or take straw
7 votes.

8
9 Mr. Larkin: Right, either straw vote or keep a tally so that we can simply scoop them up in one
10 motion at the end.

11
12 Chair Holman: Okay, I am going to go to the second point here, increasing the floor area ratio
13 for hotels, generally 2.0: 1 except in the CN zone where hotels are not allowed and allowing 25
14 percent for residential use. Does anybody have any questions, comments or concerns about that?
15 Okay.

16
17 What I am going to do here is for the first two bullets can we just have a straw vote then of all
18 those in favor of supporting those two recommendations from Staff?

19
20 Commissioner Garber: Sorry, may I just ask a question? What you are suggesting is that the
21 opportunity zones should be multi-use with the same residential requirement as any other?

22
23 Commissioner Keller: Yes.

24
25 Vice-Chair Lippert: I disagree with that I think we can deal with that when we do the
26 Comprehensive Plan amendments. The issue is that City Council as I had alluded to before had
27 made some hasty decisions in terms of rezoning parts of El Camino Real and they became
28 housing sites to the detriment of El Camino Real and the economic viability of El Camino Real.
29 So my feeling here is that we have an opportunity to correct this when we do the Comprehensive
30 Plan amendments so we should just keep it whole right now.

31
32 Chair Holman: If I might, we are only talking about two sites neither of which is on El Camino
33 so keep that in mind.'

34
35 Commissioner Keller: Well, in particular I am not interested in spot zoning but in particular if
36 we exempt the 5-21 site which is the one on Alma and Forest then that under the regulation could
37 become 100 percent housing and I am not sure that that's what we would like to encourage. I
38 would think that that's not what we want to encourage. It may have been that the City Council
39 not being aware of exactly which sites were in question was being cautious by suggesting we
40 exempt that.

41
42 Mr. Larkin: I would just caution you that there is a fair argument to be made and a fairly
43 persuasive argument to be made that they could be 100 percent housing either way regardless of
44 what the Commission does because of state law. So that is the context in which the City Council
45 gave direction.

1 Chair Holman: Does that?

2

3 Commissioner Keller: Well, I would wonder whether it is properties designated in the Housing
4 Opportunity Sites in the City's Housing Element now or whether we are referring to if future
5 properties are Opportunity Sites that they suddenly become exempt from the requirement for
6 mixed use.

7

8 Ms. Caporgno: I believe that when the Council directed us to do this on August 7 to make these
9 changes to eliminate standalone housing in the commercial zones it was an interim measure prior
10 to complete – the reason was because we weren't going to go forward with the Comprehensive
11 Plan Amendment immediately so they wanted something in place in that intervening period of
12 time. So I think it is just the direction at the time anyway was interim until we completed the
13 update to the Comprehensive Plan.

14

15 Mr. C. Williams: In the Comprehensive Plan when you develop this list next time you can say in
16 the proposed zoning category what you want it to be. If the thought at that point is that some of
17 the sites could be mixed use then you could specify that it should be limited to mixed use and
18 that would help and we may or may not have to go back into the zoning ordinance to change
19 something but there may be other sites that they say should be rezoned.

20

21 Ms. Caporgno: It is just because they are commercial zones right now. What we will be doing
22 with the Comprehensive Plan and the next Housing Element is that those sites should be
23 designated planned for residential purposes. Right now these two sites we have never rezoned
24 and we should be rezoning them to a zoning district that would restrict the uses on the property
25 to insure housing.

26

27 Commissioner Keller: I am still a little confused because we have indicated that these are to be
28 mixed use. We have indicated by mixed use my understanding is that we expect there to be
29 essentially ground floor retail plus residential above. And that if we eliminate this exception
30 then when we do the Comp Plan Update we could say that the sites on the Housing Opportunity
31 list are not to have any uses other than retail or and housing if that is what we want it to be. But
32 if we leave this exception in then depending on the wording of the exception anything that is put
33 on the Housing Inventory List suddenly becomes potentially 100 percent housing and I don't
34 think that that's what we intend. So even if you put this exception the exception should refer to
35 things in the Housing Opportunity Sites only the ones that are there now that is where it should
36 apply not the future ones. Even the ones there now there is a reasonable argument to say that we
37 will fix forcing them to be housing and retail in the Comp Plan otherwise we will have to go
38 back to the mixed use and fix it again.

39

40 Chair Holman: Commissioner Sandas.

41

42 Commissioner Sandas: I had a clarifying question. I just heard from Don that the proposed
43 zoning which we don't have the zoning district of mixed use was there but just to clarify with the
44 Council's recommendation were they recommending that these two sites that seem really well
45 suited for mixed use, there is only one floor of retail and then all the rest is housing and they can
46 build that a little taller than something along – I can't remember the name of the street.

1
2 Ms. Caporgno: Remember the Council never evaluated this. There was a memo from the City
3 Attorney who recommended that we exclude the sites that are listed on the Housing Inventory
4 because of state law requirements. That is why they did it. It had nothing to do with individual
5 sites.

6
7 Commissioner Sandas: Okay. So can I follow up with a question? What is the state law just for
8 my edification? What is the state expecting of us?

9
10 Mr. Larkin: We can't put any requirements on housing on our inventory sites that aren't in
11 existence. So if there are development standards – the mixed use zoning designation for those
12 sites because we never actually created the mixed use zone and zoned those sites we can't
13 impose those standards on these sites. So if a developer who owns a one of these properties
14 wanted to develop 100 percent housing it wouldn't matter that our zoning said only in this
15 context because they would have an absolute right to develop a 100 percent housing project on
16 those sites as of right now. It doesn't mean that we can't create design guidelines but how we
17 enforce that is going to be dependent on what we do with our Comprehensive Plan designation.
18 That is why the suggestion was made we exempt them for now because if they come through the
19 door tomorrow with a project they get to build it. When we update our Comprehensive Plan we
20 can address that by creating these mixed use requirements in the Housing Element and we can
21 fix it but we are not going to fix it through the zoning ordinance here tonight and that is the
22 bottom line.

23
24
25 Commissioner Sandas: Okay, so the bottom line is that we need to be okay with this.

26
27 Mr. Larkin: Yes.

28
29 Chair Holman: Commissioner Garber.

30
31 Mr. Larkin: You can change the ordinance if you want but it won't be effective so we might as
32 well focus on what we can do.

33
34 Commissioner Garber: I was only going to suggest procedurally that we go back to your
35 _____ which is I would tick off all the things that we don't have issues with and let's
36 highlight the ones we do and that way we can focus our attention on everything together. So
37 noted, we have two that we need to come back to.

38
39 Commissioner Sandas: Which ones?

40
41 Commissioner Garber: The first bullet and the last bullet.

42
43 Commissioner Sandas: The first bullet is a done deal more or less.

44
45 Commissioner Garber: Well, as far as you are concerned.

1 Commissioner Sandas: As far as the state is concerned and as far as our attorney is concerned.

2
3 Mr. C. Williams: So the middle three bullets are okay?

4
5 Chair Holman: No. Sorry. The second bullet I did not hear any comments or concerns about
6 the second bullet. Are we all in agreement or the majority in agreement? So that is a six-zero.

7
8 On the conditional use permit for commercial retail including restaurants and services operating
9 between 10:00 p.m. and 6:00 a.m. in the CN and CS districts when adjacent to residentially
10 zones properties. Any questions, comments or concerns about that?

11
12 Commissioner Keller: I just have a clarifying concern which is that a restaurant that closes at ten
13 o'clock but still has patrons in it that stay until eleven is that a CUP or not?

14
15 Mr. C. Williams: It is under this.

16
17 Commissioner Keller: Okay, I just want to make the record clear on that.

18
19 Mr. C. Williams: Operate or have associated activities.

20
21 Commissioner Keller: Okay, because somebody may argue that a restaurant that closes at ten is
22 okay and I just want to be clear.

23
24 Vice-Chair Lippert: You know, now that you mention it they are there for another hour cleaning
25 up afterwards and that falls into that. So maybe the way to define it is see service.

26
27 Mr. Larkin: The other option is to fix it through the CUP conditions so that if they are there until
28 eleven then you can condition the CUP.

29
30 Mr. C. Williams: That is exactly what the CUP is for. It sets the conditions out for what can
31 happen after ten o'clock.

32
33 Vice-Chair Lippert: Great.

34
35 Chair Holman: I guess my concern actually is most especially in the CN zone why would we
36 have any businesses operating between midnight and 6:00 a.m. I am trying to think of examples.

37
38 Commissioner Keller: You mean like Safeway or a donut shop?

39
40 Chair Holman: That is CS I believe.

41
42 Mr. C. Williams: I don't know but it doesn't seem to me like we should be so exclusive that we
43 say they shouldn't they just require a use permit and they come in and it would be noticed and if
44 there were some activity that had to happen then that it would be considered and it may not be
45 approved. But I just wouldn't want to be as directive as saying you can't do anything. In some
46 locations it might be okay to have a delivery at 5:00 a.m. and in other locations you are next to

1 somebody and it is not the way that it is situated of where your delivery comes up to or the
2 access route or something.

3
4 Chair Holman: Okay. Then my other comment is in a lot of places throughout here we have
5 used the words 'adjacent and abut' and I have difficulties with all of those because again
6 adjacent to residentially zoned properties and again there could be a driveway, an alley, or a
7 street that intercedes and I think it still is an issue. Noise travels more than just across a property
8 line. So I think we need to go back to at a minimum the 50 feet but I would be open to
9 something greater than that but certainly nothing less than 50 feet requiring a CUP. Any other
10 comments? Commissioner Tuma.

11
12 Commissioner Tuma: I agree with that completely. I think that there are so many parcels that
13 are chopped up in little corners here and there and just because it is not – 'abutting' is really a
14 problem for me 'adjacent' is a bit vague so I would like to see it defined a little bit better.

15
16 Mr. C. Williams: Okay, so 'abutting' is defined as basically having common property lines. So
17 if we say 'abutting or within 50 feet of.'

18
19 Commissioner Tuma: In this case, I think what Commissioner Holman is objecting to is
20 'adjacent to.'

21
22 Mr. C. Williams: Right, that is in the Staff Report but the code language I think we have gone
23 through that and it consistently said 'abutting.' We agree adjacent is not defined in the code and
24 it is also it is more vague. Abutting does mean up against it.

25
26 Vice-Chair Lippert: Adjacent could be directly across the street.

27
28 Chair Holman: So you said abutting or within 50 feet but if it is abutting it is within 50 feet so
29 do you need the language 'abutting' or is it just within 50 feet?

30
31 Vice-Chair Lippert: No because 50 feet could skip a property line or skip a parcel.

32
33 Mr. C. Williams: I understand what you are saying. We will think about it. It doesn't hurt to
34 say abutting or within 50 feet.

35
36 Commissioner Keller: Let me ask this clarifying hypothetical. Suppose you have a large parcel
37 of some sort or a deep parcel and with one big parcel the parcel is abutting right abutting a
38 residential property but the use is in the very front of the property, okay? So the question is what
39 is it that you are measuring? Are you simply saying that because the property in question is
40 abutting residential it can't have any such things or are you saying that the use can't be within
41 150 feet or 50 feet? I am just wondering what is the measurement.

42
43 Mr. C. Williams: The property is abutting regardless of the uses it requires a CUP. So you come
44 in on that CUP and you define and in the case of the thing being in the front there are a number
45 of things that probably won't factor in that would otherwise and you address them through the
46 CUP.

1
2 Commissioner Keller: So because you are doing the CUP the threshold is if you will lower?
3 People can get by if they are good citizens and apply various requirements that we can place? So
4 would there be a concern with having that distance be somewhat larger say 150 feet or abutting?
5
6 Mr. C. Williams: It would I think because you would end up with CUPs for practically every
7 project out there and that is just a burden that you are placing on commercial development that
8 we don't think is reasonable.
9
10 Chair Holman: I don't think it is as clearly defined but the uses say between 10:00 p.m. and 6:00
11 a.m. if it is, as somebody else mentioned, a delivery as opposed to a nightspot that is totally
12 different and that would be dealt with during the CUP process.
13
14 Mr. C. Williams: Absolutely.
15
16 Chair Holman: And its adjacency or proximity to residential development.
17
18 Mr. C. Williams: Right. I assume there would be a lot more interest in those nighttime uses near
19 residential uses with the nightclub than something else where they are just concerned about
20 deliveries.
21
22 Vice-Chair Lippert: You know there are things that you can get your hands around and there are
23 things that you can't get your hands around. A driver making a delivery at five o'clock in the
24 morning, he is there, he delivers, and he is gone. Something that is in operation beyond a certain
25 hour usually happens on a regular basis and it is very easy to send somebody out and do
26 enforcement on something like that. The same thing for the building being located 150 feet or 50
27 feet away from a residential zone. It is formalized in the fact that it has a building permit, it has
28 plans, and you can't just take that building and literally move it closer to the property line. So I
29 think that the CUP process is more an appropriate for this and it is a good catchall.
30
31 Chair Holman: So if I might be presumptuous based on a couple of comments I have heard
32 including my own, Commissioner Tuma would you care to state what you think you would
33 propose for CUP?
34
35 Commissioner Tuma: The proximity issue would be that if it is within 50 feet then the CUP
36 requirement kicks in.
37
38 Commissioner Keller: Can I ask one clarifying question about that? Is that 50 feet the building
39 envelope, the property envelope?
40
41 Mr. C. Williams: The 50 feet is the residentially zoned property.
42
43 Commissioner Keller: From? In other words.....
44
45 Commissioner Sandas: At any point.
46

1 Commissioner Keller: From any point of this property. So if this property is within 50 feet of a
2 residentially zoned property.

3

4 Vice-Chair Lippert: That is exactly right.

5

6 Chair Holman: So do we have consensus on that point?

7

8 Commissioner Sandas: Yes.

9

10 Chair Holman: Okay, all right. Moving on. Reducing the front setback along El Camino to
11 allow buildings up to the property line so long as they provide for adequate sidewalk. Sidewalk
12 width generally is eight to 12 feet and appropriate pedestrian streetscape design. Any comments
13 or questions on that? I see two at once, Commissioner Tuma.

14

15 Commissioner Tuma: Just the adequacy of the sidewalk and the appropriateness of the
16 streetscape design how is that determined?

17

18 Mr. C. Williams: The ARB will be looking at the streetscape design but it is primarily in the
19 context-based design that has pretty specific criteria here for what we are looking for on
20 streetscape. The ARB has additional guidelines of their own to look at. Then the El Camino
21 Real Guidelines have a lot on streetscape and then that also factors into the sidewalk with the El
22 Camino Design Guidelines have sidewalk widths.

23

24 Chair Holman: Commissioner Keller.

25

26 Commissioner Keller: Thank you. One question I have about build-to lines. Suppose somebody
27 wanted to have a slight bit or some degree of recess in order to have outdoor tables for
28 restaurants sort of like the property that replaced Kirk's on California Avenue where the burger
29 place and the taco place are. Is that the kind of thing we want to encourage or the kind of thing
30 we don't want to encourage? I know we don't want to encourage cars in the front but I am sort
31 of wondering whether we want to encourage some degree of in and out, pedestrian activity in the
32 front and how that is accounted for?

33

34 Mr. R. Williams: It is accounted for both in design guidelines and in the regulations to allow for
35 flexibility and that but it is predominantly to create a building wall unless it has seating areas or
36 other opportunities. So it does create some variety within it and the ability to create variety
37 within it.

38

39 Commissioner Keller: Would those seating areas be considered open space as far as the open
40 space is concerned or would it not?

41

42 Mr. R. Williams: Yes, they can be.

43

44 Mr. C. Williams: If they are on the private property and not the sidewalk, yes.

45

46 Chair Holman: Commissioner Sandas.

1
2 Commissioner Sandas: Well, I was reading that to assume the flexibility that either you can
3 build your building right up to the property line or you could do what you want from the property
4 line as far back as you wanted to. It seemed like it made provision for outdoor seating or
5 anything like that. I think that is what I heard you say.
6
7 Mr. C. Williams: No, we don't think the flexibility, in terms of it doesn't require you to be – it
8 has some range of setback I think zero to ten feet. So there is some opportunity you don't have
9 to be right at zero.
10
11 Commissioner Sandas: You are not required to build on.....
12
13 Mr. C. Williams: But you also can't be beyond the ten feet.
14
15 Commissioner Sandas: Ten feet back.
16
17 Mr. C. Williams: Ten feet back from the property line except if this covers 50 percent of the
18 frontage. So for 50 percent of the frontage you can't. You could in some areas go farther back
19 or go out like that and then you have a driveway and some other spaces that are set farther back.
20
21 Mr. R. Williams: Those are illustrated pretty extensively in the various guidelines.
22
23 Chair Holman: One I still had a little bit of concern about was, I guess probably because I have
24 images around town that are stuck in my head, is the ordinance says a minimum of 50 percent as
25 Commissioner Garber noted and one example particularly sticks out where it is more than 50
26 percent, actually two projects. I always walk by and because the whole building except for a
27 very minor setback on the ground floor is at that minimum setback that you feel pushed off the
28 sidewalk. I know that is not the intention of the guidelines but the ordinance does say a
29 minimum of 50 percent so I am a little concerned about allowing 100 percent especially for
30 larger projects to be at that minimum setback.
31
32 Commissioner Sandas: Can I ask you a clarifying question? So what you are saying is that if
33 there is 100 percent of a building that is built up to the property line.
34
35 Chair Holman: If it is multi-story.
36
37 Commissioner Sandas: You feel that you are being pushed off the sidewalk?
38
39 Chair Holman: Yes, that tension of being pushed off and a lot of people have that reaction. So it
40 is a clarification for how the ordinance is written in keeping with the guidelines.
41
42 Mr. R. Williams: A couple things about it and I am not sure which building you are thinking of
43 precisely.
44
45 Chair Holman: There is one on Lytton and one on Hamilton. The one on Lytton especially.
46

1 Mr. R. Williams: I don't know the building specifically and the other thing is they don't have
2 the 12 foot sidewalk now because this requirement, currently there is an eight foot sidewalk and
3 we are requiring an additional four feet. So we are setting it back so it is a wider sidewalk than
4 you currently have.

5
6 Commissioner Sandas: On El Camino as part of the El Camino Design Guideline.

7
8 Mr. R. Williams: So that is one of the pieces so it is already going to be wider from that
9 standpoint. I am not experienced at feeling you are being pushed off the sidewalk from the
10 building on a 12-foot sidewalk.

11
12 Chair Holman: I haven't put a tape to this but it looks to me like about a 12-foot sidewalk.

13
14 Mr. R. Williams: I have to admit I am not familiar.

15
16 Chair Holman: And it is two story. Yes, sir.

17
18 Commissioner Garber: I was only going to mention that the specific designs that would be
19 proposed would go through ARB and presumably they would be able to catch that sort of thing.

20
21 Chair Holman: This did too.

22
23 Commissioner Garber: But did they have this requirement to answer to?

24
25 Mr. C. Williams: No, but they went through ARB. I think that is something that ARB would be
26 looking at when they have this requirement more so than they probably did before. I don't know
27 what the circumstances were there. That is Downtown and Downtown already has not setback in
28 the front, as it is we don't have to change anything there. So we would be essentially requiring
29 something more than that.

30
31 Commissioner Keller: This is kind of a left field question but it fits here. Does it make sense
32 and if so to what extent does it make sense in the situation where people create a ground floor
33 restaurant and have seating area that is permanently required if you will as part of the ground
34 floor restaurant because it was recessed and whatever, does it make sense at all to consider part
35 of the seating area as part of the retail FAR or does that not make sense? I am just thinking
36 about it. Just hypothesizing for a moment. I think that if you have nice greenery and some
37 seating out that that's actually an attractive use.

38
39 Mr. R. Williams: It is not considered part of the FAR. If it was considered part of the FAR it
40 would be a disincentive for having the restaurant but you are already getting – but making it be
41 FAR isn't giving them an incentive. The other thing is, the bigger issue is that when they
42 provide seating they have to provide the parking associated with that seating I believe.

43
44 Commissioner Keller: Actually, maybe I misspoke. I don't mean counted as FAR I mean let
45 them count it towards the minimum FAR that is required for retail. That is what I am suggesting

1 as opposed to – not counting it as far as building FAR but counting it towards the minimum FAR
2 for retail.

3
4 Mr. C. Williams: First of all, if it is just retail there isn't any minimum FAR. So we are only
5 talking about mixed use where the minimum FAR kicks in and I just think that is
6 overcomplicating the issue.

7
8 Chair Holman: Also weather factors and all kinds of things. Commissioner Garber.

9
10 Commissioner Garber: Enough said.

11
12 Chair Holman: Well I stated my concern. Other than that does anybody else have concerns with
13 the eight to 12 foot setback? I am going to come back to you.

14
15 Commissioner Sandas: Do we have a consensus on that?

16
17 Chair Holman: Yes, no one else had any comments or concerns about that one except for mine.

18
19 Commissioner Keller: About which one?

20
21 Chair Holman: The eight to 12 foot setback on El Camino.

22
23 The 150-foot residential transition area is maintained but the related setbacks, daylight plane, and
24 height requirements only apply if the residential property abuts the site. Comments?

25
26 Commissioner Lippert: I agree. I think that is perfectly well stated. I think that it is a pretty
27 good change in the zoning ordinance. Part of the reason being that we have always applied the
28 RM-15 standard when you had a mixed use component above a commercial or a residential
29 component above a commercial. It begins to really relieve that constraint.

30
31 Commissioner Keller: I would suggest two changes to that. One is on the ZOU ordinance that I
32 have under development standards on page 14. It says within 150 feet from abutting residential
33 zone is 35 and then it says footnote five. Footnote five says for sites abutting an RM-40 zone
34 residential district or residential planned community district maximum height may be increased
35 by 50 feet.

36
37 Chair Holman: Not by 50 feet.

38
39 Commissioner Keller: I'm sorry, to 50 feet. The issue is that if a property abuts or that R-1 and
40 abuts RM-40 or abuts RM-40 and RM-30 or RM-15, in other words a combination, then it
41 doesn't seem to make sense that just because you are abutting one RM-40 that that should count.
42 So what I would suggest firstly is that for sites for which the only residential that it abuts and I
43 will come back to that later is RM-40 or residential planned community then the maximum
44 height can be increased to 50 as opposed to if any of the abutting residential is RM-40 or PC.
45 Does that make sense? (okays) So I want the universal not the existential. I want it all not
46 some. That is the first thing.

1
2 Commissioner Garber: I apologize, just so I understand I may have lost the thread in this. But
3 for any property all of the sides with the exception of its street side would need to touch a
4 residentially zoned property.

5
6 Commissioner Keller: No, what I am saying is that this is written saying it could be increased to
7 50 if it abuts some RM-40 or residential PC. What I am saying is if all of the abutting residential
8 is either RM-40 or PC then the height can be increased. So in other words, if there are any
9 residential that is not RM-40 or PC then the height is not increased.

10
11 Mr. R. Williams: And I would assume you include commercial, PF and all of the other zones
12 because

13
14 Mr. C. Williams: Any other residentially zoned

15
16 Commissioner Keller: The issue is that if there is any residential zone abutting that is not RM-40
17 or PC then it is still limited to 35 feet. Suppose we have a property and on one side is RM-40
18 and the other side is RM-15 it should still be limited to 35 feet and not 50.

19
20 Commissioner Garber: Is that the intent of the Staff?

21
22 Mr. C. Williams: I don't think it is a problem with that. I would point out that we are actually
23 not to that point yet. That is the next use table and that is on the next page of the Staff Report
24 where it is the third bullet there that talks about height. This one on page four deals with the
25 table before that which doesn't have that provision associated with it. It simply says maximum
26 height.

27
28 Commissioner Tuma: Page?

29
30 Mr. C. Williams: It is on page 12.

31
32 Chair Holman: It is 18.16.060, correct?

33
34 Mr. C. Williams: Yes and (a) Exclusively Non-Residential in the height in that has standard
35 heights and then within 150 feet of an abutting residential zone district is 35 feet, 25 feet in CN
36 regardless. So if it is all commercial that is what we are talking about in this section.

37
38 Commissioner Keller: So if it is all commercial then and there is an alleyway in between the
39 property in question and residential, even R-1 properties, then 150 feet doesn't apply. So I am
40 not sure what it means '150 feet of an abutting.'

41
42 Mr. C. Williams: That is where we need to put the abutting or within 50 feet and I agree with
43 that.

44
45 Commissioner Keller: Okay.

1 Chair Holman: Commissioner Lippert.
2
3 Vice-Chair Lippert: I have a question here also. Would that daylight plane only apply to the
4 side that is closest to that residential use?
5
6 Mr. C. Williams: Yes.
7
8 Vice-Chair Lippert: So in other words, if you wind up with a parcel, you have a residential zone
9 adjacent to it and abutting it and on this side you had a commercial zone but it was all
10 commercial and not a factor here it would only be this one where you would be concerned about
11 coming up and having the daylight plane. Not here it could go straight up on that side of the
12 building, correct?
13
14 Mr. C. Williams: Right but it would be 150 feet from that residential.
15
16 Vice-Chair Lippert: That is the point that I am trying to make. What is the net impact from this
17 side of the property line on this side?
18
19 Commissioner Garber: So both sides of the property line or just the outside?
20
21 Vice-Chair Lippert: You would still wind up with a daylight plane that would come across like
22 this. It would come up and then it would be whatever
23
24 Mr. C. Williams: It isn't a daylight plane issue it is a height issue.
25
26 Chair Holman: But this says daylight plane, setbacks and height requirements.
27
28 Vice-Chair Lippert: Correct so daylight plane means that it would come up and then it would
29 come over so technically it is slicing through on an angle in that direction.
30
31 Commissioner Garber: It would slice to the height the other edge would define.
32
33 Vice-Chair Lippert: Right, you would have a wedge-shaped building.
34
35 Mr. C. Williams: Yes, on daylight plane it would definitely only applies on the side where the
36 residential is. The height is a little different between is it basically within 150 feet of that
37 residential property line and the height is 35 feet. So if that takes you all the way across the lot
38 then it takes you all the way across the lot.
39
40 Vice-Chair Lippert: Right, but what I am trying to get at is what advantage would there be if you
41 had a daylight plane where it would come up and it would meet and it would create a tent like
42 that. The important thing is the fact that you probably want to encourage massing just to be
43 skewed to one side of the site.
44
45 Mr. C. Williams: Correct, yes. That is the way that it works. So height we need to change that
46 language on this residential portion, table three, to be abutting within 50 feet.

1
2 Chair Holman: There are two things at once here. Also with the setback daylight plane.

3
4 Mr. C. Williams: The setback daylight plane....

5
6 Commissioner Garber: Is germane to the side that is abutting.

7
8 Mr. C. Williams: It is germane to the side that is abutting. I think the question is would we
9 require a residential daylight plane basically if there were a residential zone 50 feet away? I
10 would question why we would do that we have a height limitation but why we would have a
11 daylight plane. I mean a daylight plane is really to create some space it is not the same as the
12 height limitation.

13
14 Chair Holman: So the height kicks in and I think where I am seeing it apply more is the rear
15 property line because especially along El Camino there are all these commercial properties but
16 they either abut residential zones or there is an alley or something like that interceding. I think at
17 the rear it is still is a significant issue. One of the members of the public actually asked
18 something, which isn't in here or mentioned something, which I think, is actually a good
19 addition. That is to require landscaping at the rear of these parcels. It helps provide not only
20 screening, I'm sorry? Okay. It provides screening but also some sound absorption.

21
22 Mr. R. Williams: It is in the book, the Design Guidelines and it is also in the regulations.

23
24 Mr. C. Williams: I think the way it works here in the rear is basically if you had an alley there
25 and then you had the residential property line which we are saying is the way it would be written
26 here is that within 150 feet of that residential property line going forward so across the 50 feet
27 and then 100 feet beyond that you would be limited to a 35 foot height.

28
29 Chair Holman: Okay, so if that is the intention clarification is the Commission in agreement
30 with that?

31
32 Commissioner Keller: Are you basically suggesting deleting the word 'abutting' within 150 feet
33 of a residential zone district? And if you want to put in the same caveat that except for RM-15
34 and on PC that would be fine with me.

35
36 Mr. C. Williams: We would put it in the other one but it is not within 150 feet of the residential.
37 That what we are trying to get away from is within 150 feet of a residential zone district. If there
38 is a 100-foot lot between this one and this one we don't think there should be a limitation on the
39 height of this property.

40
41 Commissioner Keller: So you are suggesting it be within 50 feet or abutting?

42
43 Mr. C. Williams: It is 50 feet or abutting, yes. If the lot is within 50 feet or abutting then within
44 150 feet of that lot we have the height restriction.

45
46 Commissioner Garber: I suspect a diagram might be helpful.

1
2 Commissioner Keller: Let me try to get this straight. What you are saying is that here are the
3 conditions in which it applies. If the lot is abutting or within 150 feet of a residential property
4 other than RM-40 or PC residential then the following restriction applies. Within 100 feet of that
5 residential district there is a 35-foot height limitation.
6

7 Mr. C. Williams: If the residential property is either abutting the commercial property or is
8 within 50 feet of that then within 150 feet of that residential property the height is limited to 35
9 feet.
10

11 Commissioner Keller: Okay, that is fair. With the RM-40 and PC residential not counting?
12

13 Mr. C. Williams: Right.
14

15 Commissioner Keller: In other words, residential property other than RM-40 and PC zones. I
16 think we are in agreement there.
17

18 Chair Holman: Let him go ahead and describe that.
19

20 Mr. R. Williams: Residential property within 50 feet or abutting. Then within 150 feet of the
21 residential property the height limit is 35 feet. Beyond that even if it is the same property it goes
22 up.
23

24 Vice-Chair Lippert: Even if we were to make it 50 feet and allow them to go up 50 feet that is a
25 one to one ratio or 45 degree angle which is what we would require in a residential zone as a
26 daylight plane or a height limit in term of – the whole idea is you want to make it workable in
27 terms of people not being in the shadow of a big building. Like I am.
28

29 Commissioner Keller: So let me ask a hypothetical question. Would this basically be an
30 incentive for somebody to subdivide their property so that let's suppose they are 50 feet away
31 they subdivide it – let's suppose they are adjacent and they subdivide 60 feet in the back?
32

33 Chair Holman: If I might, I think parking would become a lot more difficult and would be a
34 disincentive to subdividing the property.
35

36 Vice-Chair Lippert: Yes, you don't want to subdivide.
37

38 Mr. R. Williams: You couldn't put any of your FAR as part of that other property and you
39 would lose all the FAR for that site area. I think the reality is that if you have an abutting
40 property or property close to residential the Design Review Committee takes that very seriously
41 and looks for all the screening and daylight planes, etc. I think the regulations also create
42 setbacks and the reality is in every study we have done including those up there when you push
43 the buildings to the street you don't have enough FAR in your regulation to still keep the
44 building back at the back of the property too. It pushes the building up and so it immediately
45 renders the daylight plane to not really be the issue. It is never the regulatory issue.
46

1 Commissioner Keller: I am not talking about daylight plane I am talking about height.
2
3 Mr. R. Williams: Height, daylight plane it becomes the non-issue and I think you are actually
4 adding extra disincentive to developing property because your building is so far away from the
5 residential in that instance that it isn't the issue.
6
7 Mr. C. Williams: We already have the 150 feet with the lower height in there now. This is a
8 very small tweak of that.
9
10 Chair Holman: So are we all in agreement on that? (ayes) Okay. So we need to go back to the
11 first bullet point here just real quickly. Limiting residential uses to mixed use except for
12 properties designated as a Housing Opportunity Site in the Housing Element. Can we come to
13 closure on that one?
14
15 Commissioner Keller: I will propose a compromise. The compromise is that except for
16 properties currently designated as Housing Opportunity Sites on the City's Housing Element.
17
18 Mr. R. Williams: I want to caution against wordsmithing too much because what you are doing
19 is you are now creating a permanency for those sites on the Housing Inventory if you add that. If
20 we later remove those from the inventory they are still exempted in the ordinance. So I think
21 that is probably not what you intended and you need to be careful.
22
23 Commissioner Keller: Well, what I am worried about is I don't want this to apply to commercial
24 properties in the future that are placed on the Housing Opportunity list.
25
26 Mr. R. Williams: It will unless we fix it in our Comp Plan. So I think you should focus on
27 fixing it in where we can and not on where we are likely to create more problems.
28
29 Commissioner Keller: What is the timing for the fixing of the Comp Plan versus the revised
30 Housing Element?
31
32 Ms. Caporgno: They are going to be done in conjunction. We are doing it together.
33
34 Commissioner Keller: So at the same time so we won't have a problem. Okay.
35
36 Chair Holman: The Housing Element is part of the Comp Plan.
37
38 Commissioner Keller: Well, sometimes they get off-sync.
39
40 Ms. Caporgno: That is true but we are going to be doing them together.
41
42 Chair Holman: Okay, if we might there were a couple of cleanup matters. One was deleting the
43 maps from the Downtown Commercial (CD) Chapter. Is there any issue with that? Seeing none,
44 okay.
45

1 A clarification on the definition of historic rehabilitation. Any concern with that? Seeing none I
2 had just one question previous, which was related to this. In the interest of time I think I will just
3 ask question if the Commission would support this. Previously except in SOFA II where it was
4 rectified buildings on the seismic inventory, in other words buildings that needed to be
5 seismically retrofitted, got the seismic bonus when the building was demolished rather than when
6 the building was retrofitted. So if I might suggest to the Commission that we would like to be
7 consistent with SOFA II and not allow the retrofit bonuses for those buildings that are
8 demolished but rather the ones that are actually rehabilitated.

9
10 Vice-Chair Lippert: I would be very careful about this. To give you an example one of the
11 reasons why the good old Floral Craft building has remained and has not been an active is that it
12 cannot be rehabilitated. It is a hollow clay tile building and so we don't really allow for them to
13 replace that building in an economical way.

14
15 Commissioner Sandas: I don't understand.

16
17 Chair Holman: I guess I don't understand why they just couldn't demolish the building and
18 rebuild and right now they have the incentive that they can take advantage of that and they still
19 haven't redeveloped.

20
21 Vice-Chair Lippert: That is a good point, yes, but they should be able to take advantage of
22 seismically upgrading that building and having the bonus FAR in order to do that.

23
24 Chair Holman: If they rehabilitate but not demolish.

25
26 Vice-Chair Lippert: You can't rehabilitate it. It is a hollow tile building. The same thing for
27 Watercourse Way that is a hollow tile building.

28
29 Chair Holman: Actually, they can be rehabilitated is my understanding from doing a lot of this.
30 But I just wanted to see if there was a general sense, we have a lot to cover still, so I just want to
31 see if there is a general sense.

32
33 Commissioner Keller: I would be in favor of what the Chair suggested and particularly since for
34 example the precedent is there for R-1 properties when you add on to them you get a design
35 bonus but if you build it from scratch you don't get a design bonus. So the incentive is useful for
36 rehabilitation.

37
38 Commissioner Garber: Was that the intent in SOFA II to give bonuses to keep the structures that
39 were in that area?

40
41 Chair Holman: Yes, it was two things. It was one to do that and the other was we felt that
42 rehabilitating a building was the purpose for the incentive and not demolishing it. So it was
43 counter to the purpose is what our feeling was.

44
45 Commissioner Garber: Commissioner Lippert your example, could you review that again,
46 please?

1
2 Vice-Chair Lippert: Well, just that you take the California Floral Craft building as an example.
3 It is a hollow clay tile building it cannot be adequately retrofitted. It needs to be raised and start
4 from scratch.
5
6 Chair Holman: My point with that one is they have had this incentive all along and they still
7 haven't redeveloped. I don't want to spend a lot of time on this but I just wanted to see if there
8 was a sense of the Commission to make this change.
9
10 Commissioner Sandas: What constitutes historic?
11
12 Chair Holman: This has nothing to do with historic. It is seismic retrofitting.
13
14 Commissioner Sandas: Historic rehabilitation, so it is not – it just means rehabilitating the
15 building that exists?
16
17 Chair Holman: Yes and seismic upgrades.
18
19 Commissioner Sandas: That is what I mean.
20
21 Chair Holman: So don't look at this. This is different, the same section of the code but not
22 related to this in the Staff Report.
23
24 Mr. C. Williams: I guess my concern is just not being familiar enough with it to know whether
25 this is something that is a big issue with people or not.
26
27 Ms. Campbell: How many in Downtown have done that?
28
29 Chair Holman: I know of one in SOFA I that did it and that is what triggered the discussion for
30 SOFA II. I don't know how many of these buildings even still exist in Downtown, not many, but
31 I couldn't give you an exact number. Again, I didn't want to belabor the point it is something I
32 brought up last week or before that and I thought I would see if there is a consensus of the
33 Commission to make this change or bring the issue to the Council?
34
35 Commissioner Garber: There is no reason not to do it. I don't have...
36
37 Vice-Chair Lippert: I will make a compromise on it, which is let's say that three-quarters of the
38 building can't be retained. That is one of the ways we look at it. What constitutes a
39 rehabilitation or a new structure and they generally say when you violate three-quarters of the
40 building.
41
42 Chair Holman: The definition of demolition is 50 percent of the building.
43
44 Mr. C. Williams: I guess I am just not comfortable with kind of going there. This sounds like
45 something that HRB ought to look at.
46

1 Vice-Chair Lippert: We are talking about seismic not historic.
2
3 Mr. C. Williams: Well, something that the building officials...
4
5 Mr. R. Williams: The seismic retrofit also touches more than just the zoning ordinance and we
6 are not proposing...I think it is something we need to look at independently because that touches
7 both sections of the code that we are not amending and I think we need to look at that more
8 comprehensively before we can make the change. I think the point is well made and so it is
9 something that Staff can look at.
10
11 Chair Holman: Okay. Yes, it is out there.
12
13 Vice-Chair Lippert: So we are just going to defer it?
14
15 Chair Holman: Yes.
16
17 Vice-Chair Lippert: Okay, that's fine.
18
19 Chair Holman: At this time.
20
21 Mr. R. Williams: We don't have the notice for Title 16 provisions on the agenda so we can't
22 amend the building code portions of that.
23
24 Vice-Chair Lippert: We also only have an acting Chief Building Official who is not certified.
25
26 Chair Holman: So Curtis, would you care to speak to the ground floor uses in CS zone on page
27 five of the Staff Report?
28
29 Mr. C. Williams: Yes. This is the issue as we mentioned before the CS zone is the only one of
30 our commercial zones that does allow office use on the ground floor in somewhat more broad
31 terms than others. All the other zones are essentially protect existing retail, personal services and
32 restaurants on ground floor and they can't be converted to office use. The CS zone does allow
33 conversion to office use as long as it is not housing right now but it limits that to 5,000 square
34 feet unless a conditional use permit is granted for something larger.
35
36 I think one of the main reasons we think this is still appropriate is we need somewhere that has
37 some flexibility to allow office especially medical offices. We are limiting here, this is really
38 professional and service and medical offices, it doesn't allow administrative offices like
39 headquarters buildings. I think one thing that maybe would work is to like we have housing in
40 here to add retail maybe to that and say that if it is retail now you can't convert it to office but if
41 it is some of these other uses that you can go to office.
42
43 Chair Holman: Commissioner Lippert.
44
45 Vice-Chair Lippert: I always had a problem with this and one of the problems is that it was
46 enacted during the period of time when there was really a great incentive to, and it was almost

1 like under a siege mentality where retail was being converted into office space. We don't have
2 that anymore. However, I do think it is important to preserve retail but I think it should be a
3 percentage of the commercial FAR. My thought here is this, if we limited it to a percentage on
4 the smaller sites the office element would simply just go away. On the larger sites they could
5 support it. It would be something that would be a little more meaningful and perhaps add a little
6 more vitality to the whole mixed use concept. So that is just a thought. You pick a number like
7 maybe five percent and you might end up with about 5,000 square feet on a 100,000 square foot
8 site. On a much smaller site you couldn't get anything that would be meaningful to be office
9 space.

10
11 Mr. C. Williams: And that is our concern is that for instance I just was dealing with a dentist
12 who has been moved out of a Welch Road office about three weeks ago and looking high and
13 low to try to find an office space to move into. There has been an empty wireless carrier store on
14 El Camino for quite a while now and the property owner hasn't been able to get anyone in. It is
15 CS zoned and she was able to go in there and use that as her dental office.

16
17 Vice-Chair Lippert: What about putting it on a sliding scale where you have a minimum of
18 5,000 and then it begins to slide up to a certain percentage of the site on a larger site.

19
20 Mr. C. Williams: That is fine but I think we have already got the 5,000 square foot limitation.
21 So all you are doing is making less of a requirement for a use permit because on a larger site you
22 can have more than 5,000 square feet.

23
24 Chair Holman: Commissioner Keller.

25
26 Commissioner Keller: I am having trouble with the antecedents so perhaps you can explain to
27 me in the second paragraph of page five it says, while this would provide additional protection,
28 could you tell me what 'this' is?

29
30 Mr. C. Williams: This is deleting the El Camino Real exception from CS zoning.

31
32 Commissioner Keller: So alternative recommendation A would provide additional protection for
33 retail and that is what you are recommending?

34
35 Mr. C. Williams: No. This is an alternative recommendation. Our recommendation is to leave
36 it alone. It is an alternative that we provided for the Commission to consider if you would like to
37 make that recommendation.

38
39 Commissioner Keller: I am just trying to figure out – so this means not the alternative
40 recommendation. I am confused.

41
42 Mr. C. Williams: This means, this whole paragraph deals with the alternative recommendation.
43 I am just saying it is not Staff's recommendation. It is an alternative to Staff's recommendation
44 that you might want. We tried to identify a couple of those that we think there are some gray
45 areas in and this is one. That alternative is to make the CS zone match all the other zones and

1 essentially anything that is in retail, personal services, housing or restaurant use cannot be
2 converted to office period.

3
4 Commissioner Keller: I see. So this refers to alternative recommendation A, which is one of the
5 options that Staff has identified.

6
7 Mr. C. Williams: Yes.

8
9 Commissioner Keller: Okay.

10
11 Commissioner Garber: The reason not to do that is to be able to allow some office and allow
12 that use in these areas where they can benefit presumably the community as well as a leasing
13 community that is being tossed out of another part of the city.

14
15 Mr. C. Williams: Right. I think another thing we thought of was the possibility of maybe to
16 lower that 5,000 square foot number to 2,500 or something like that to create smaller offices
17 before you trigger the use permit requirement. What we have now is essentially says you can
18 have office on the ground floor but limited to 5,000 square feet. If you want more than 5,000
19 square feet you have to go through a use permit process.

20
21 Commissioner Garber: But in the case you just described was that space greater than 5,000
22 square feet?

23
24 Mr. C. Williams: No it was about 1,500 square feet. That was adequate for this dentist and her
25 operations.

26
27 Commissioner Garber: But then presumably the parcel is also very small too. So relative to the
28 streetscape it has a small impact.

29
30 Mr. C. Williams: Yes.

31
32 Chair Holman: Commissioner Tuma you look like you might have a comment or question.

33
34 Commissioner Tuma: No, to me it doesn't make sense to go with alternative A. I think Staff'
35 original recommendation makes sense.

36
37 Vice-Chair Lippert: But what I would do is say limit it to 5,000 square feet and then anything
38 over that you could get there with a conditional use permit.

39
40 Mr. C. Williams: That is what it is now.

41
42 Commissioner Tuma: That is what he is saying is leave it that way and with the CUP you can
43 get more than that.

44
45 Commissioner Keller: Were you suggesting 2,500?
46

1 Mr. C. Williams: I just threw out 2,500 as another option here if you thought that the 5,000 was
2 too much and you were trying to preserve retail more it could be 2,500. I know it would work
3 for a very small office and Commissioner Garber mentioned it doesn't alter the streetscape so
4 much. It assures that we just get one small storefront.

5
6 Commissioner Keller: I think that Commissioner Lippert had sort of said something about a
7 sliding scale percentage-wise. Were you thinking of something along those lines?

8
9 Vice-Chair Lippert: Actually, I will say that I was wrong. Curtis persuaded me that we
10 shouldn't be doing that. One of the reasons is what it would do is force offices out of some of
11 the smaller buildings that are more desirable to something like a dental office. I am thinking the
12 other way around which is that 5,000 square feet on a much larger parcel is very limiting. So
13 that is where I was coming from.

14
15 Mr. C. Williams: They would still have an opportunity under the use permit process to request
16 something larger on that larger parcel.

17
18 Vice-Chair Lippert: Correct.

19
20 Chair Holman: I would suggest two things to make two changes. One is to limit it to 2,500
21 square feet and also add in what Curtis suggested earlier which is that it could not replace retail.

22
23 Commissioner Keller: Could you explain what you mean by 'not replacing retail'? Do you
24 mean that if its last use was retail it would have to remain retail or if it is vacant would that mean
25 it could convert into office?

26
27 Chair Holman: Well there are vacancy rules where there is retail protection. So if it is vacant for
28 a year, isn't it?

29
30 Vice-Chair Lippert: Except during the last recession things were vacant for a lot longer than a
31 year.

32
33 Chair Holman: What we are trying to do is stimulate retail. So if we are allowing office to
34 displace retail and while the pressure isn't as extensive as it was for a while it could happen
35 again at least to an extent that we could be counterproductive.

36
37 Commissioner Keller: I am concerned about the incentive and I don't know why property
38 owners would want to do this. Sometimes property owners will allow their property to remain
39 fallow in order to eventually create a different project. So the situation is that if we had
40 somebody who was thinking about a project and was not renting out their space and therefore
41 kept it vacant for a couple of years and then said okay, forget about that I can now make it office.
42 I am sort of wondering how that would work.

43
44 Mr. C. Williams: The language right now actually doesn't say for a year or anything. It says if
45 was vacant in March 19, 2001.

1 Chair Holman: That's right.
2
3 Mr. C. Williams: And it hasn't been used for retail since then then it can be.
4
5 Commissioner Keller: So I would be comfortable with keeping that as the restriction. If it was
6 vacant on March 19, 2001 and
7
8 Mr. C. Williams: That is what I am saying, the requirement is everywhere else and it is also in
9 the CS zone but the CS zone has this one provision that says on El Camino Real forget all that
10 stuff. If it is replacing anything except housing, if it is going in anywhere except where there is
11 housing you can have office up to 5,000 square feet. The question is do you want the flexibility
12 of doing that in that one district which is basically the pink?
13
14 Chair Holman: Which is a lot.
15
16 Vice-Chair Lippert: Have you seen a lot?
17
18 Mr. C. Williams: No, we haven't seen a lot. I don't think there is a lot but it has some.
19
20 Commissioner Keller: Would it make sense to think about putting in a similar restriction that if
21 it is currently used for retail – in other words parallel language to what is there for the others?
22
23 Mr. C. Williams: That is what alternative A basically is to put that language in the CS zone like
24 it is in the other zones, which is if it is used for those retail type uses then it couldn't be
25 converted to office.
26
27 Commissioner Keller: Then it would require a CUP then I assume?
28
29 Mr. C. Williams: It wouldn't require one at all.
30
31 Commissioner Keller: Well, suppose we allow it with a CUP.
32
33 Commissioner Garber: But a CUP essentially acts as a deterrent for the ongoing because it is
34 one more process, it is more time, etc., and it is discretionary.
35
36 Chair Holman: Commissioner Sandas.
37
38 Commissioner Sandas: I am just wondering do we have adequate medical and dental space in
39 Palo Alto?
40
41 Mr. C. Williams: We are not going to when....
42
43 Commissioner Sandas: Welch Road. Yes, so
44
45 Mr. C. Williams: They have to find some other.....
46

1 Commissioner Sandas: My question is I understand the great necessity for retail. You don't
2 have to beat me over the head with it we have beating ourselves over the head with it for several
3 months now. However, why would I want to go to the dentist in Sunnyvale instead? Why do we
4 need to preclude medical and dental office uses? Why do we need to set so much restriction? I
5 am confounded by that.

6
7 Mr. C. Williams: That is where we are.

8
9 Commissioner Sandas: We have to look forward to the trends. Just like in putting the assisted
10 living facility at Channing House. We are looking forward to demographic trends and we know
11 that this is an economic trend in our community. So why are we putting and maybe I am just
12 misinterpreting but why are we putting up so many barriers in favor of small retail that I
13 wouldn't say necessarily, not being in the economic development part of city, but I wouldn't say
14 that is necessarily generating what we are looking for. We are wanting to preserve car
15 dealerships because that is where the big sales tax revenue is coming from not Mike's Bikes.
16 Although they do sell really expensive bikes there.

17
18 Chair Holman: Commissioner Garber.

19
20 Commissioner Garber: I was just going to say in terms of adhering to the concept of creating
21 flexibility because we don't know what the future is, I mean obviously we are trying to respond
22 to a condition that is in front of us now which is the loss of dental and medical office on Welch
23 Road. But the reality is that space could be used for something else that we don't know about in
24 the next two or three years as well. So I would....

25
26 Commissioner Sandas: What space is that?

27
28 Commissioner Garber: Allowing office into these zones. By allowing it we are giving ourselves
29 the flexibility to do it. So I find myself not supporting the alternative recommendation, which
30 excludes it.

31
32 Mr. C. Williams: Could I prevail on the Chair to ask for a motion on this issue?

33
34 Chair Holman: I was going to listen to Commissioner Lippert and then, yes.

35
36 Vice-Chair Lippert: Maybe it is time to start looking at medical offices that see people as either
37 services or retail because they are providing similar services as to what a coffee shop might be
38 where you have people coming in and out all day. It is not significantly different than say going
39 to the coffee shop where you have commercial traffic going in and out. It is a business.

40
41 Chair Holman: Are you going to make a motion?

42
43 Commissioner Sandas: No, I am not I just wanted to make one other comment about restrictive
44 size. I guess one of the things that I am envisioning is that I am kind of comparing Welch Road
45 to maybe a possibility for something larger than 5,000 square feet on El Camino. So I am maybe
46 spitting in the ocean to raise the tide but I think about 5,000 square feet and I think about my

1 dentist's office and I think her office is probably somewhere in the 3,000 square foot range. If
2 she were not a lone dentist but if they are similar to the medical offices on Welch Road if we had
3 some provision to allow for more than 5,000 square feet.

4
5 Mr. C. Williams: We do with a conditional use permit.

6
7 Chair Holman: Because of the complexity of this it probably would be good to have a motion.
8 Commissioner Garber.

9
10 MOTION

11
12 Commissioner Garber: I will move that we accept the proposed revisions to the commercial
13 district that Staff has provided here with the following exceptions. I will need some help in
14 clarifying them. Item number one is we had made some modifications to the first bullet.

15
16 Commissioner Keller: I don't think we have.

17
18 Commissioner Garber: So we don't have that. So the next one was bullet number three where
19 we were going to change the word 'adjacent' to 'abutting or within 50 feet.' Bullet point number
20 five it does about the site so was there no change to bullet five?

21
22 Chair Holman: No.

23
24 Mr. C. Williams: Then also add if it is adjacent to RM-40 or the PC zones that the height can be
25 higher.

26
27 Commissioner Keller: Well, put it this way. I think it was a 150-foot transition is maintained
28 but the related setbacks only apply if the residential property is within 50 feet or abutting a
29 residential property other than RM-40 or PC zoned residential.

30
31 Mr. C. Williams: Right.

32
33 Commissioner Garber: And, that we exclude alternative recommendation A from this motion.

34
35 SECOND

36
37 Commissioner Tuma: I will second it.

38
39 Chair Holman: Do you need to speak any further to what the discussion has been?

40
41 Commissioner Garber: I don't think we need to speak about it any more.

42
43 Chair Holman: I was respectfully asked that the alternative A be broken off as a separate motion
44 and we deal with the five bullets that we basically have already addressed if you might do that.

45
46 Commissioner Garber: I will respectfully not accept your....

1
2 Chair Holman: It will cause me to vote against this. I don't think you will take a friendly
3 amendment.

4
5 Vice-Chair Lippert: Do a substitute motion.

6
7 Mr. Larkin: It is within the Chair's discretion to break apart a motion into two parts. So if it is
8 the Chair's wish to do so she can do so.

9
10 MOTION PASSED (6-0-0-1, with Commissioner Burt absent)

11
12 Chair Holman: Thank you. So we will vote Commissioner Garber's motion on the five bullet
13 points with the corrections as stated as a part of the motion. All those in favor? (ayes)
14 Opposed? None. So that passes on a six to zero vote with Commissioner Burt absent.

15
16 Mr. Larkin: Then the way that that would work is you would take the second part of the motion
17 which is to adopt Staff's recommendation and not alternative A.

18
19
20 Chair Holman: And, Commissioner Lippert seconded that. Is there any reason to speak to that?
21 I will be opposing it just because I would like to see it included that it not replace retail in place
22 at the passage at the ordinance. I think that would cover it for me. The reason for that is because
23 I would like to think we would have some mechanism by which we could protect the doctors'
24 offices on Welch Road. That isn't before us tonight but I think it is also possible that we could
25 end up with these displaced services, which are important to the community creating a medical
26 ghetto along El Camino that would displace a lot of valuable uses. So that is why I would
27 oppose not including that as a part of the motion. So if there are no other comments?
28 Commissioner Keller.

29
30 Commissioner Keller: I would like to propose as a substitute motion what Karen just said.

31
32 Chair Holman: I think it doesn't matter because we vote for his motion or against his motion I
33 think it accomplishes just what you are stating.

34
35 Mr. Larkin: Your substitute motion is the opposite of the motion.

36
37 Commissioner Keller: Okay.

38
39 Chair Holman: So all those in favor of

40
41 Vice-Chair Lippert: Please restate what the motion is.

42
43 Mr. C. Williams: The motion is to retain as proposed and not do alternative A.

44
45 Commissioner Keller: Can I make a comment first? I think that we need to carefully address the
46 issue of medical offices. I think that that requires a comprehensive look at a designation of a

1 category of medical office. The problem is with the proposal is that it just says office and if our
2 intent is that we allow medical offices to replace retail then why not say that? That is different
3 from saying we are allowing some other kind of office to replace retail. I think that considering
4 the potential for sometime down the road actually creating a designation and thinking about a
5 comprehensive look at where we put medical offices would be worthwhile and this does not
6 solve the problem. In fact it is not clear that medical uses of the space would pay more than
7 some other office uses of the space and that if offices were allowed that medical would be the
8 use that was adopted.

9
10 Chair Holman: So you are saying office is too general. It is not even specific to medical offices
11 and this is one of the things you are saying.

12
13 Commissioner Keller: That's right.

14
15 Commissioner Tuma: Is it reasonable to constrain the office us to the medical professions?
16

17 Mr. C. Williams: I think you could limit it to medical office. I wouldn't necessarily suggest
18 that. I just want to say that this does not address the medical office situation but changing the
19 current situation might worsen it and so it doesn't address it either. So we think the best
20 situation is leave it alone for the time being until and unless because there are going to be
21 proposals coming forward as far as other ways to address it too. When Stanford's hospital
22 expansion comes forward that is going to be part and parcel of a lot of that discussion. So I
23 would just caution against doing something that might impact it either way. What we are saying
24 is essentially keep the status quo and allow that flexibility.

25
26 Commissioner Keller: But we shouldn't think of this being the fix for the medical office
27 problem.

28
29 Chair Holman: No, right.

30
31 Mr. C. Williams: Absolutely not.

32
33 Chair Holman: Okay.

34
35 Commissioner Garber: So where are we? I had created an initial motion, which was broken off
36 into two pieces. Karen created a substitute motion.

37
38 Chair Holman: No.

39
40 Mr. Larkin: No, we are through the substitute and now we are back to the second part of the
41 original motion, which is to adopt Staff's recommendation and not adopt alternative A.

42
43 Commissioner Garber: So if this fails then by de facto we are

44
45 Mr. Larkin: We will still need another motion but we can guess what that would be.
46

1 MOTION FAILS (2-4-0-1, with Commissioner Burt absent)

2
3 Chair Holman: So I am going to call the question. All those in favor of Commissioner Garber's
4 motion say aye please. (ayes) And nay? (nays)

5
6 So the motion fails. So we need a new motion and if you feel like you can make a new motion
7 then you can speak to it in the form of your new motion.

8
9 Commissioner Garber: Okay. So I will move that we take Staff's most current recommendation,
10 which is to adopt alternative A, which is the status quo.

11
12 Chair Holman: No, no, no.

13
14 Mr. C. Williams: Alternative A is an option different than the status quo.

15
16 Mr. Larkin: As the maker of the motion I suggest you make a motion for reconsideration and
17 vote again.

18
19 Commissioner Garber: I'm sorry. I am confused between the three different things. Someone
20 else needs to guide me through this.

21
22 Mr. Larkin: You have already voted. You need to make a motion for reconsideration.

23
24 MOTION

25
26 Commissioner Garber: I move that we reconsider the previous vote.

27
28 SECOND

29
30 Commissioner Tuma: Second.

31
32 Mr. Larkin: Now take the vote again.

33
34 Chair Holman: The motion was to accept the Staff recommendation, which is no change.

35
36 Commissioner Garber: Yes, exactly.

37
38 MOTION PASSED (4-2-0-1, with Commissioners Tuma, Garber, Lippert and Sandas in favor,
39 Commissioners Keller and Holman opposed, and Commissioner Burt absent)

40
41 Chair Holman: Okay, all right. All those in favor? (ayes) Opposed? (nay) That passes on a
42 four to two vote with Commissioners Tuma, Garber, Lippert and Sandas in favor and
43 Commissioners Keller and Holman opposed.

44
45 Development standards, the next bullet points on page five. Curtis would you care to step us
46 through those?

1
2 Mr. C. Williams: Setbacks and daylight planes abutting residential uses, front setbacks the same
3 as what we were talking about with the commercial height, which we would certainly expect the
4 same suggestions that were made on the first one. Coverage, open space, landscape percentages.
5 We have overall landscape coverage percentages. We have added requirements for usable open
6 space per residential unit and these match the requirements that are in the PTOD ordinance that
7 was adopted by the Council and so do the criteria as far as locating it above the ground level.
8 Allowing CN FAR to go to 1.0 instead of 0.9 and to 40 feet high instead of 35 feet on El Camino
9 Real. Reducing the maximum FAR for mixed use in a CC(2) that is the California Avenue area
10 from 3.0 to 2.0 because you can't get above 2.0 as it is. Site and Design Review would not be
11 required if four or fewer residential units are proposed. The minimum commercial FAR that we
12 discussed before which would be 0.15:1 in CN and CS, 0.25 in the CC(2) zone and there is
13 nothing in the CD, the Downtown does not have a minimum.

14
15 Then there are these couple of qualifiers on mixed use. One that the storage, use, and handling
16 of hazardous materials isn't permitted in a mixed use project. That is written in the code again to
17 be above those exempt amounts so it is to a permitted level. That mixed use development is not
18 allowed on automobile dealership overlays.

19
20 Chair Holman: So as we go through these any comments or questions on the first bullet about
21 the setbacks and daylight planes? We have talked about this essentially with the abutting.

22
23 Commissioner Tuma: We would still have the same?

24
25 Mr. C. Williams: This we would leave the abutting I think because you don't need an additional
26 setback if you have 40 feet or 30 feet or an alley or whatever. On the daylight plane the same
27 thing applies. It is when you are abutting the property that you are looking for those. It is the
28 height that we talked about before which we would need to modify to say the same thing as we
29 said before with the commercial.

30
31 Commissioner Keller: A couple of slight things, which I assume you are saying would match the
32 setbacks and daylight planes that are most restrictive along that property line.

33
34 Mr. C. Williams: Right and it is along a portion. So there may be two, theoretically there could
35 be a property boundary, very rarely would it happen but, where a property comes back and it is
36 zoned say R-1 and then right next to it is an RM-30 or something like that and portions of it. So
37 you would use whatever is adjacent to that property line.

38
39 Commissioner Keller: Well, would you use partly R-1 setback and partly RM-30 setback?

40
41 Mr. C. Williams: We are going R-1 from the R-1 lot and RM-30 from the RM-30 lot.

42
43 Commissioner Keller: If you were to do that then you would probably want some sort of radius
44 because the issue is that in the corner where R-1 meets RM-30 in that corner you would have a
45 transition affect.

1 Mr. C. Williams: You know what, let's just say most restrictive.
2
3 Commissioner Keller: Okay.
4
5 Mr. C. Williams: I think it is going to come up so....
6
7 Mr. R. Williams: It is not going to make any difference whatsoever.
8
9 Chair Holman: Right. Any other? Yes, sir.
10
11 Commissioner Tuma: I am sorry maybe it is the hour but I am still not following this. It would
12 seem to me that if you have a project that doesn't abut the residential use but it is very, very
13 close like within a couple of feet of that residential use wouldn't you still want to match the
14 setbacks and daylight planes for the residential use?
15
16 Mr. C. Williams: It is a residential zone there that is right abutting it. I don't see that there
17 would be a case where you would have five feet between a residential zone and a commercial
18 property.
19
20 Chair Holman: If they are offsetting property lines for instance?
21
22 Commissioner Tuma: Yes, maybe it is an alleyway. Is that going to give you enough room?
23
24 Mr. C. Williams: So an alleyway you would have more than what you would have for a setback.
25 Your daylight planewhat you are really doing is locating the daylight plane to keep
26 development away from the residential zones.
27
28 Commissioner Tuma: Okay. I am with you.
29
30 Mr. R. Williams: When you have a gap in property the zoning goes to the center of that gap so
31 you wouldn't have a commercial zone followed by an alley zone followed by an R-1 zone. You
32 would have R-1 and commercial abutting.
33
34 Commissioner Tuma: I am with you.
35
36 Vice-Chair Lippert: So just to put it in practice. El Camino Real you have that alley that nobody
37 owns. It would not occur at the real property line of commercial properties.
38
39 Mr. R. Williams: You are talking about the zones not the property lines.
40
41 Vice-Chair Lippert: Okay. We have the zone and we have the alleyway and then we have
42 residential.
43
44 Mr. R. Williams: We don't have a separate alleyway zone. So the zone goes to the back
45 property owner.
46

1 Commissioner Tuma: They abut because there is no intervening zone?
2
3 Mr. C. Williams: Right.
4
5 Vice-Chair Lippert: But you see it is not defined as anything.
6
7 Mr. R. Williams: It is. It is defined as the zoning that it is in.
8
9 Commissioner Garber: So half the alley is zoned one way and half the alley is zoned the other.
10
11 Mr. R. Williams: That is most likely.
12
13 Commissioner Tuma: So the parcels abut for this purpose.
14
15 Mr. C. Williams: Okay.
16
17 Chair Holman: Okay. Any other? What I would like to do here is if there are no real issue we
18 won't even need to go back here for an encompassing motion if we can just agree or not agree on
19 these points.
20
21 Commissioner Keller: I assume on height we are doing the same thing as we did for the last one.
22
23 Mr. C. Williams: Right, the same language as we did for the other.
24
25 Commissioner Keller: Okay.
26
27 Chair Holman: The front setbacks are there. Any other comments on that? We covered that
28 earlier. Okay. So we are all in agreement with that.
29
30 Height, we discussed that to the extent.
31
32 Commissioner Tuma: Right.
33
34 Chair Holman: So Curtis you have our comments on that.
35
36 Mr. C. Williams: We will make that change.
37
38 Chair Holman: Coverage, open space, landscape percentages, any comments on that point?
39
40 Commissioner Keller: Only my nitpick that six units requires less open space than five units do.
41
42 Mr. C. Williams: I understand. We draw a line somewhere and we think it is easier.....
43
44 Mr. R. Williams: Acknowledged.
45

1 Chair Holman: I had one comment on this one, which was regarding the rooftop gardens. I
2 guess where I would head with this is rather than counting the rooftop gardens as part of the open
3 space but as a part of sustainability, which will be coming to us I am hoping at some point in the
4 near future that it be a requirement of a sustainability program.
5
6 Commissioner Sandas: I agree with you.
7
8 Vice-Chair Lippert: I agree with that. We should use a term like 'green roofs.'
9
10 Chair Holman: So?
11
12 Commissioner Keller: I am sympathetic.
13
14 Chair Holman: Awesome.
15
16 Mr. C. Williams: So the motion is – let me make sure I get this one down.
17
18 Commissioner Garber: Are we going to talk about Fry's?
19
20 Mr. C. Williams: So we would be changing I think it is going to be the context based design
21 section that actually discusses that open space provision for rooftop gardens.
22
23 Chair Holman: I hope you will forgive us for doing this this way, Curtis. I am trying to get
24 through it more quickly than not.
25
26 Mr. C. Williams: That's fine.
27
28 Commissioner Keller: Can I ask a related question?
29
30 Chair Holman: Sure.
31
32 Commissioner Keller: My related question is how is all of this affected by rooftop restaurants?
33
34 Chair Holman: I think it is a topic we don't want to go to tonight. If you will bear with us I
35 think not tonight.
36
37 Commissioner Keller: I will bear with you that's fine. That is something that people might do.
38 They might build a restaurant up there with open space and tables and whatever. I am wondering
39 how that affects the retail requirements.
40
41 Chair Holman: If I might, remembering the microphone issue we have whispering and other
42 conversations going on. I don't want to curtail what needs to happen but Zariah is going to be
43 down my neck and I wouldn't blame her. Rick?
44

1 Mr. R. Williams: A clarification. We have rooftop or podium in the regulation. We want to
2 make sure that those are two completely distinct and different things because we spent a lot of
3 time on getting podium level open space as counting.

4
5 Commissioner Tuma: This is in the form code?
6

7 Mr. R. Williams: Yes, this is in the code because wanting to get the podium level.
8

9 Mr. C. Williams: No it is not in the code. It basically says.....
10

11 Mr. R. Williams: The way the regulations are designed with the usable open space here of the
12 150 to 200 is that open space that is on a podium is allowed to be considered as part of that
13 recognizing that's where the open space on a lot of the mixed use projects occurs and is usable
14 by the residents.
15

16 Chair Holman: I think rooftop is not intended to be.
17

18 Mr. R. Williams: Okay, I just wanted to clarify that.
19

20 Mr. C. Williams: I am not sure we need to because well, what it says is that usable open space
21 and usable open space is not this landscaped open space area itself. It is an area directly tied to
22 the individual units. It says that usable open space may be or does not need to be located on the
23 ground and may be located in porches, decks, balconies and/or podiums.
24

25 Mr. R. Williams: Right.
26

27 Mr. C. Williams: Then down here it talks about rooftops having high quality landscaping and
28 that and open space generally but it doesn't say anything about it actually counting.
29

30 Chair Holman: Can we clarify that then?
31

32 Mr. C. Williams: Yes, we should probably do it in the code itself under the table, Required
33 Usable Open Space. It says does not need to be located on the ground and then we can clarify
34 that rooftop open space does not count. We can just add something after that to clarify that
35 rooftop open space does not count.
36

37 Mr. R. Williams: Do you have a rooftop open space currently in the city?
38

39 Vice-Chair Lippert: Yes, there are a number. You look at some of the apartment buildings in
40 Downtown North. You have the penthouse and adjacent to the penthouse is usually a communal
41 space of some kind for the residents of the mid-rise apartment building. I am thinking of 101
42 Alma.
43

44 Chair Holman: Rick, I need to ask you to speak up, please.
45

1 Mr. R. Williams: Well, I don't understand why that wouldn't count as open space because you
2 have living space or something right adjacent to it or your common room. It is on a roof because
3 there is residential or another use underneath it.

4
5 Vice-Chair Lippert: It is not uncommon in a very urban setting.

6
7 Commissioner Sandas: Right, however, my own opinion unencumbered by the facts, is that
8 from the ground I can't see that open space. You might see an orange hanging over from an
9 orange tree hanging over but I can't see that open space. When I am walking on the ground on
10 the sidewalk I want to see some open space and it ain't on the rooftop.

11
12 Mr. R. Williams: Except that you can't see the open space in the backyard from the street either
13 if there is a building in front of it and you still count it. In fact right now you count the little
14 fingers of landscaping in the parking lot as open space and one of the things we are trying to do
15 is eliminate that as being counted as open space.

16
17 Commissioner Sandas: And putting it on the roof instead?

18
19 Mr. R. Williams: Right or putting it on a podium.

20
21 Mr. C. Williams: We need to distinguish.....

22
23 Commissioner Sandas: A podium is one thing but.....

24
25 Mr. R. Williams: You are trying to create spaces that are usable that are outside.

26
27 Chair Holman: Right. If I might, Commissioner Sandas, I think part of the point that you are
28 trying to make is not only can you not see that open space but instead of that open space if that
29 requirement is satisfied on the rooftop that you are going to see more built environment rather
30 than

31
32 Commissioner Sandas: Right, more cement.

33
34 Chair Holman: Yes.

35
36 Mr. C. Williams: That is why my distinction is we have two types of open space. We have a
37 requirement that 30 percent of the site be landscaped and open space. Start with that. Let's
38 essentially say that rooftops do not count against that so you still have to have that landscape and
39 that. We then have 200 square feet per unit that has to be usable open space that means that it is
40 accessible from that unit, it is something that they can use and that very well be a lot closer and
41 usable to them on the rooftop than it is down on the ground floor or on a podium where they
42 walk right out and they are on the top of the podium and you have some space. So I think we
43 would like to credit some of the overall open space to the rooftop too, not all of it but some of it,
44 but at a minimum we think it is important to have allowed usable open space for each one of
45 those units if it satisfies our definition of being usable the rooftop would count or the podium
46 would count.

1
2 Chair Holman: You are referring to it as part of the private open space though.

3
4 Commissioner Sandas: Usable by the residents?

5
6 Chair Holman: Usable and private.

7
8 Mr. C. Williams: Right. Usable open space is private generally.

9
10 Vice-Chair Lippert: I think the issue here is this: it has always been that parking has been
11 competing with open space. The parking is generally the group that wins out. In fact there are a
12 number of projects that have not been approved because we have this competition between the
13 open space and the parking. So something has to give. You can't put the cars up on the roof of
14 the building but you can get people up to the roof of the building. So maybe it is worthwhile
15 looking at maybe a percentage of the open space can be applied to rooftop. It could be very
16 simply said as maybe 20 percent of it, not all of it but 20 percent is a reasonable number. Or
17 what we can say is maybe 50 percent of the usable tenant open space might but up on the
18 rooftop. That is just a way of looking at it so you are not so constrained.

19
20 Chair Holman: Commissioner Keller.

21
22 Commissioner Keller: I think that in terms of the competition of cars and trees the issue is that
23 counting podium on top of cars or on top of the parking encourages the hiding of all those cars
24 and putting green on top of it which is actually an amenity for the residents because they can get
25 to park under something and it is an amenity in terms of greenery that is a dual good. The issue
26 of putting greenery on the roof I think is an interesting thing but I am not sure what positive
27 thing it is encouraging.

28
29 Mr. R. Williams: It is not as communally useful as having the space on the podium level.

30
31 Chair Holman: Right. Rick and then Commissioner Sandas.

32
33 Mr. R. Williams: I think we are overanalyzing it. The reality is there is so much liability in
34 rooftop decks that they are very small. There is also the requirement of exiting that the Building
35 Department puts on them so that they are going to remain small because if they are over an x-
36 percentage of square feet then you need two stairs that go to the roof and most buildings don't
37 have the two stairs going to the roof. So there are lots of things that discourage the rooftop decks
38 that are going to make it a very small percentage of anything that you consider. The reality is
39 that you are going to have a lot more, in all of these schemes it is very hard to just get the exact
40 amount of open space that you need, you end up just putting the podium over the cars gives you
41 much more open space than you ever would need statistically. So generally your projects don't
42 have a problem of creating enough usable open space at a podium level to have plenty. The
43 rooftop is probably more than anything else is an extra amenity for a special unit that someone
44 spent a lot of money on and is willing to pay the liability for and it is not really going to be the
45 key component of an open space system.

1 Chair Holman: So we can go back to just requiring it as part of the sustainability program as far
2 as counting it towards open space. Okay. All right. So are we in agreement with that? Okay.
3 Moving on. CN mixed use requirements on El Camino revised to allow a height of 40 feet rather
4 than 35 feet and FAR of 1.0 rather than .9 to reflect a relationship to height and width to the
5 arterial. Comment or questions?
6

7 Commissioner Keller: If we were to allow that I think it should have the same kind of
8 restrictions in terms of the adjacent properties.
9

10 Chair Holman: It does.

11
12 Mr. C. Williams: It does it is subject to all of those things. It is just a matter of the one set of
13 numbers here changing a little bit.
14

15 Commissioner Keller: But the issue is if it is adjacent to or if it is near residential is it 35 or 40?
16

17 Mr. C. Williams: Within 150 feet it is 35 feet.
18

19 Chair Holman: Right.
20

21 Commissioner Keller: Otherwise it is 40?
22

23 Mr. C. Williams: Otherwise it is 40, right.
24

25 Chair Holman: Right. My only comment on this, which I know Commissioner Burt as Curtis
26 had mentioned earlier, rather than give away the other .1 FAR is that for the owner/developer to
27 achieve the 1.0 FAR that that extra .1 be in retail use on little sites that isn't for small sites where
28 it isn't going to make much of a difference but on larger sites it might make somewhat of a
29 difference, otherwise we are just giving away the floor area ratio.
30

31 Vice-Chair Lippert: I agree.
32

33 Commissioner Keller: It would be something that since a significant part of this involves alleys
34 and thereby – because of the adjacent alleys the need for cutting through the property for parking
35 which is part of your design criteria that you had earlier, that you had to cut through from the
36 front to the back for frontage, that ameliorates that or whatever the right word is that concern.
37

38 Chair Holman: I am lost. I'm sorry. We are talking about moving from .9 FAR to 1.0 FAR.
39

40 Commissioner Keller: Yes, what I am saying is that because these properties tend to have the
41 parking or driveway access off of El Camino it means that it is more easy to achieve that extra .1
42 that way.
43

44 Chair Holman: Okay.
45

46 Mr. C. Williams: So I think we are fine.

1
2 Chair Holman: Do we have agreement then that the .1 is achievable in retail use? Yes, okay.
3
4 Commissioner Garber: It simply gives them more space. They don't have to use it because the
5 minimum is set. So whether it is used or not it's.....
6
7 Chair Holman: Okay, the maximum floor area ration in the CC(2) zone is reduced from 3.0 to
8 2.0, as it is not feasible to exceed the 2.0 given other development standards. Any difficulties
9 with that? Curtis did the workup and it is not achievable to get to the 3.0 so it is not a
10 downzoning or anything of that nature. Any questions or comments? Okay, we are all in
11 agreement on that.
12
13 Site and Design Review for mixed use projects....
14
15 Commissioner Keller: Can I ask a question that is related to that?
16
17 Chair Holman: I am going to respectfully say no given our timing unless it is really, really
18 critical to

19
20 Commissioner Keller: Well it was suggested earlier that for the mixed use in the CC(2) zone be
21 PTOD.
22
23 Commissioner Tuma: I can't talk about the CC zone.
24
25 Commissioner Keller: No, CC(2). That mixed use in the CC(2) zone be PTOD. I know that
26 was brought up and I just want to make sure that we either decide to do it or decide not to do it.
27
28 Commissioner Garber: When would Staff suggest we address this?
29
30 Mr. C. Williams: You can address it after the Comprehensive Plan is worked out. There is
31 going to be some area study out there south of that area and we can revisit it then but at this point
32 in time that would be a down-zoning and I think that we would run into a lot of problems with
33 trying to do that right now and take it down from 2.0 down to 1.5 which is what the PTOD has.
34
35 Commissioner Sandas: And the PTOD is an overlay. It is not a zone.
36
37 Mr. C. Williams: Right.
38
39 Commissioner Tuma: You don't have to take it.
40
41 Chair Holman: Right, exactly. So respectfully
42
43 Commissioner Keller: That's fine. It was brought up last time and I thought it would be
44 worthwhile resolving.
45

1 Chair Holman: All right, Site and Design Review for mixed use projects in the CN, CS and CC
2 districts should not be required if four or fewer residential units are proposed. Yes,
3 Commissioner Tuma.

4
5 Commissioner Tuma: I just want to clarify with Staff and our attorney is not here but for both
6 this point and the next point tonight we are not talking about these as they apply to CC and we
7 are not voting on these as they apply to CC. Is that correct?
8

9 Mr. C. Williams: Right.

10
11 Chair Holman: Good clarification. Any comments on this one? I have one and I am not going
12 to fall on my sword on this one but I would like to retain the Site and Design Review for these
13 units because we are making some changes, we are using form code it is fairly new, the El
14 Camino Design Guidelines have been in place but owners haven't known so much that they are
15 there in some cases. So this is implementing the El Camino Design Guidelines and I would like
16 to retain maybe for a period of one year the Site and Design Review and see what kind of
17 projects we get. I think there might be more comfort in the community if we did that as well.
18 Commissioner Garber.

19
20 Commissioner Garber: Rather than keeping it could we ask for an interim report over the same
21 time period or something of that sort?
22

23 Chair Holman: I don't know how valuable that is going to be and I say that because we are not
24 going to have the in depth look at the projects that we do during Site and Design Review so there
25 might be other issues that we would bring up as a Commission that maybe don't get addressed
26 that we are not even going to realize are existent.
27

28 Commissioner Garber: Part of presumably the reason we are doing the form code is because it
29 does relieve not only us but the applicant of some of the process. If we were looking to try to
30 evaluate effectiveness I would think that we might be able to achieve that in a report as opposed
31 to having to actually participate in it. Right?
32

33 Chair Holman: If it were to have just a back and forth here, if it were a matter of something that
34 was more objective than subjective as some of it is during Site and Design Review I would agree
35 with you but given that some of this is frankly subjective I would recommend the retention of
36 this for a period of time.
37

38 Commissioner Keller: I would be sympathetic to the idea that quite often when ordinances are
39 passed then the feedback loop is either nonexistent or weak. This gives us the opportunity to see
40 what is going on, to do the appropriate review of what is going on and then to the extent that it is
41 determined that it is working, fine, and to the extent that it is determined that it is not working
42 then appropriate fixes can be made. On the other hand if simply to report at the end of the year
43 and it turns out it is not working then you have allowed a year's worth of projects that you don't
44 like.
45

1 Chair Holman: If I might suggest too that at the end of that one year period, I am just suggesting
2 one year, that this Commission could actually prepare its own report for Council and Staff.
3

4 Mr. C. Williams: I think of all the recommendations we have here this is one I feel the strongest
5 about. I think we have had these projects come through, they have had to go through various
6 exceptions to get approved but they have been very good projects, they have been very
7 welcomed. On the one hand you could say well that it has been easy to go through the process
8 there has been a lot of support for them. But it takes time it takes a lot more time and money to
9 do that and now we have even more sort of controls in here than we have had in the past going
10 through those processes. We are talking about very small projects and it just seems like a great
11 burden on something like that to go through every Board and Commission for projects like these
12 ones I read off before.
13

14 Vice-Chair Lippert: It still goes through ARB.
15

16 Mr. C. Williams: Right.
17

18 Vice-Chair Lippert: It still goes through a discretionary review process. We just don't see it
19 that's all.
20

21 Chair Holman: Understood.
22

23 Commissioner Garber: One of the critical intents of form code, correct me if I am wrong, is the
24 work that is done ahead of the design process between the Staff and the applicant. Ideally then
25 also with input from the community as Staff sees fit. So again, I am just thinking we should trust
26 the concept change that we are doing here. I suspect that if there is something that starts to go
27 south we will hear about it pretty quickly.
28

29 Vice-Chair Lippert: I agree with Dan.
30

31 Mr. C. Williams: The Comprehensive Plan has a policy as another example to, I don't know if it
32 says to eliminate or delete or whatever, Site and Design Review from mixed use projects. We
33 are again taking that incremental step of saying well let's not go whole hog on that at this point.
34 We have some small projects that have been two or three units here or there let's allow them to
35 go through there but if we get something bigger let's still stick with it and come through all the
36 Boards and Commissions.
37

38 Vice-Chair Lippert: I am just thinking of [Mamude Taki's] project over on El Camino Real. It
39 would have gone before ARB and it would have been approved and it wouldn't have been stuck
40 in this sort of never-ending process.
41

42 Chair Holman: Another part of my rationale is because four units or fewer doesn't necessarily
43 dictate what the size of the project is especially given that if we don't limit the size of the units
44 but also there could just be a few units as a part of a mixed use. So I don't know that it really
45 dictates the size of the project.
46

1 Mr. C. Williams: But the size of the project doesn't determine ARB review.
2
3 Vice-Chair Lippert: Right.
4
5 Mr. C. Williams: If it were just the commercial project and it was five times as big as the mixed
6 use project it would still just go through ARB review. So that is why we thought about maybe
7 we should have a size of the project limitation too.
8
9 Chair Holman: So which of these are you not really committed to?
10
11 Commissioner Keller: Let me make an observation. I don't feel strongly about this so I just
12 want to put something on the record. Just because something doesn't work doesn't mean it will
13 be fixed. There is a lot of delay in the process of fixing things. So the idea that something will
14 be discovered and therefore there will be a rapid fix to that is not something that I have
15 experienced from the outside of city government looking in.
16
17 Chair Holman: So perhaps this would be acceptable to Commissioners and we can move on.
18 That Staff will bring as the projects have gone through ARB and have been approved by Staff
19 that there will be a report of those projects brought to the Commission and we can take a look at
20 them to decide for ourselves at that point, given at least the information that we will be getting
21 which won't be the same as reviewing the project we won't know the ins and outs, but we can at
22 least.....
23
24 Mr. C. Williams: We won't do it on an annual basis we will do it as the projects come through
25 and let you know that this project has been approved and you are welcome to look at the files.
26
27 Chair Holman: Right and if Staff would just highlight what the main issues were. Is that
28 agreeable to Commission?
29
30 Vice-Chair Lippert: Actually I have a better suggestion which is that rather than piecemeal it it's
31 going to be much more meaningful in a critical mass and maybe that would be appropriate in a
32 year from now as a presentation or as a part of a Retreat.
33
34 Chair Holman: Not as part of a Retreat, well maybe.
35
36 Vice-Chair Lippert: Just a component of it.
37
38 Mr. C. Williams: We could give you a report and you can decide whether it is important enough
39 to put on a Retreat or a study session. We are happy to do either one.
40
41 Vice-Chair Lippert: I think revisiting it a year from now when there is a critical mass would be
42 appropriate.
43
44 Mr. C. Williams: We will try to let you know as each project comes through. That is not a
45 problem.
46

1 Chair Holman: Okay. Can we move on?
2

3 Commissioner Keller: I just have a suggestion. Perhaps it should be based on a timeframe or a
4 minimum number of projects. So if there are so many projects then it gets moved forward.
5

6 Chair Holman: Why don't we leave that to Staff discretion? How's that?
7

8 Commissioner Keller: Okay. So are we all in agreement? Okay. All right. Next bullet,
9 minimum commercial FAR is required for mixed use in each zone to assure that there is a
10 substantial commercial component for each project. Percentage ranges from .1 FAR in the CN
11 and CS zones to .25 FAR in the CC(2) zone. We are not discussing the CC zones. Comments or
12 questions?
13

14 Commissioner Keller: I have a concern with the potential for subdividing properties. The
15 consideration is that if you have a property that is deep somebody may wish to subdivide the
16 property and make part of it into a residential property and part of it into a commercial property
17 in which the FAR would apply to part of that. So I am just wondering how we deal with that
18 concern.
19

20 Chair Holman: Commissioner Garber.
21

22 Commissioner Garber: In that circumstance a new map would have to draw. It would have to
23 come through Planning and enter into the process through a different route.
24

25 Vice-Chair Lippert: Correct.
26

27 Mr. C. Williams: And it probably would take rezoning another parcel to do residential on it.
28

29 Vice-Chair Lippert: Right.
30

31 Mr. C. Williams: You can't just split it up and then just divide it out.
32

33 Commissioner Keller: So the expectation therefore is if you have a large property and you put
34 residential on the back say and commercial in the front that the .25 would be expected to apply to
35 the entire property?
36

37 Vice-Chair Lippert: It would also need to meet the regulations in terms of minimum parcel size.
38

39 Commissioner Garber: And setbacks.
40

41 Mr. C. Williams: Right, yes that is the expectation. The .25 or .15 whichever was applicable
42 would apply to the entire site including the residential portion of it.
43

44 Chair Holman: I have one question about this. Maybe it is primarily for Rick and perhaps not
45 you are welcome to be the judge of that. I am surprising myself, as I mentioned earlier, I have
46 struggled with this a lot and I am nearly persuaded. The question for Rick is that at some point

1 there is a size of a parcel where there should be some kind of special study. Fry's is going to get
2 its own study. Hyatt would have been a project that could have. The Elks is coming along
3 somewhere. So I guess what I am looking for is a failsafe for what size parcel should we look at
4 on an individual basis as opposed to just applying these hard and fast numbers? I know you said
5 large sites, small sites that these numbers still apply but there might also be other opportunities,
6 other criteria especially if you look at South El Camino. I guess part of where I am going is if
7 you look at South El Camino and I believe the Comp Plan talks about a shopping district for the
8 neighborhood. So that is one situation I am thinking of too. I don't want to belabor the point but
9 it is an important one for me to come along.

10
11 Mr. R. Williams: I actually don't think it has to do with necessarily just a definitive number size
12 of the site because I would have to look at every single site along to determine what that is. I
13 think it really has to do with the site and its importance to the community in the long run and
14 what is its historical value. The Fry's site to me isn't a stupendously important site in and of
15 itself because of the size of the site. It is because it is next to transit. It is important to the
16 community and the city because it has Fry's and it is a tax base. I don't think that the buildings
17 on it are predominantly important but it is adjacent to different residential neighborhoods. It is
18 adjacent to transit and that is what makes that important. What makes the other big retail sites
19 important is because they are a tax base and it is carrying a critical corner of the site. I don't
20 think there are that many sites along El Camino Real that have that distinction but I think what
21 will happen is in the process of a development coming forward it will take on, you can kind of go
22 through and say that is an important site. I think between Design Review, review by the
23 Planning Commission or review by the City Council you get so much extensive review and
24 evaluation through any project in this city that you are going to extreme cases almost every
25 place.

26
27 Mr. C. Williams: I want to add that on El Camino, well not just on El Camino, in all of these
28 areas Site and Design Review will be required if there are more than four units. So if you get
29 where there are more than four you can have a lot more than that so all three are going to be
30 involved in the review for those larger sites. You will have a chance then to look and say
31 whether you think that works or not.

32
33 Chair Holman: Clarification for the Commission, that as a part of that Site and Design Review
34 use can be affected.

35
36 Mr. C. Williams: Yes.

37
38 Chair Holman: Okay. Any other comments on this particular point? Are we all in agreement to
39 that?

40
41 Commissioner Keller: I have reservation about the existing uses that are nonconforming but I
42 am not sure how that can be addressed?

43
44 Mr. R. Williams: What are you thinking of?
45

1 Commissioner Keller: Well, to the extent that the nature of the topography and geometry and
2 access to a site is such that it is currently conforming and has more than the specified amount of
3 retail I am concerned about the potential that less will be built subsequent to that.

4
5 Commissioner Garber: You are concerned that we may lose retail as a result of this?
6

7 Commissioner Keller: Yes and the interesting thing about the idea of improved retail is that
8

9 Commissioner Garber: Now you are not talking about just the Fry's site here.
10

11 Commissioner Keller: No, I am not talking about the Fry's site. I am talking about what is
12 interesting to me is that improvements are good and bad and the issue is that when you redevelop
13 sites and wind up with less retail that some may consider higher quality you are pushing out uses
14 that may not be economically viable that were economically viable in the lower rent. So what
15 you wind up with is a situation where locally owned businesses tend to get pushed out because
16 they can't pay higher rents. What replaces them instead of the unique things that make Palo Alto
17 more interesting you wind up with a homogenization of more retail that can pay more and that
18 tends to be chain stores. So you wind up with this up-scaling of Palo Alto in terms of the kind of
19 retail that exists. We have seen that in. We have seen that in Downtown where former uses have
20 gone away and newer more expensive uses have come in. So I think that the idea of
21 redeveloping retail to higher priced rent is not an unalloyed joy. It has its benefits and
22 drawbacks. There is some advantage to economic diversity in retail, to having lower rent retail
23 spaces. If our encouragement is basically to say let's just say that we are going to try to
24 maximize the revenue of the City that is not the only factor. Part of the factor is a mix of
25 services that we are providing to the community. If the situation is that say cleaners can't pay
26 high rent and in order to clean your clothing you have to go to Mountain View we wouldn't
27 consider that a good thing would we? So there is an idea of a panoply of retail uses that allows
28 for people in Palo Alto to shop for a lot of their needs in Palo Alto.
29

30 Chair Holman: If I might I would propose this. As you heard me say earlier at length I had
31 some of the same concerns, is this something that Staff feels like if there is a lot of
32 redevelopment and this is a trend that starts happening that we have a check-in on this in a year?
33 Why don't we do that? Would that be objectionable to anyone?
34

35 Mr. C. Williams: The other thing I should mention is that one of the main goals of the Comp
36 Plan Update is to look at retail and preserving retail. So I think that is also a good avenue to
37 explore that aspect of retail, the diversity of retail kind of thing and neighborhood and serving
38 versus more regional. So I think that is a good mechanism and probably in that year period we
39 probably will be to you with some initial discussions of where that might be headed.
40

41 Commissioner Keller: Well, because we are dealing with Prop 90 it might make sense to think
42 about if the amount of retail that is put into a new site is less than 95 percent of what is there
43 now, sort of like what we did for the CC...
44

45 Mr. C. Williams: You can't go there.
46

1 Commissioner Keller: Okay sort of what we did for Town & Country. Can I say that?

2

3 Chair Holman: No.

4

5 Commissioner Keller: Okay, so....

6

7 Mr. C. Williams: I understand what

8

9 Commissioner Keller: Okay, if we do that and if it were less than that it would require a CUP
10 for that.

11

12 Vice-Chair Lippert: No, no.

13

14 Chair Holman: Commissioner Lippert.

15

16 Vice-Chair Lippert: Can we just get through these points and get to Fry's already because it is
17 20 of eleven now and I am fading fast. I am not going to be able to comment on Fry's because I
18 am not going to remember what I need to say.

19

20 Chair Holman: We have had a lot of discussion on this one and I think if we have as you say the
21 discussions at the Comp Plan, you know I share the same concerns, and if we have a report
22 coming back to us in about that year period of time. So if the cattle are getting out we are going
23 to know it and be able to take some action.

24

25 Commissioner Keller: We not be able to if Prop 90 passes.

26

27 Chair Holman: Commissioner Garber.

28

29 Commissioner Garber: Just for the record, we won't get into it, I don't think that will happen for
30 all the reasons that we have discussed here. I think in fact it will end up supporting many of the
31 things that you want to happen.

32

33 Chair Holman: Okay. Last two bullet points here are uses involving storage, use of hazardous
34 materials and excess of exempt amounts will not be permitted in a mixed use project. No
35 comment there I presume. Mixed use development would not be permitted on the sites
36 designated with the automobile dealership or AD overlay. We have discussed that previously.
37 Curtis, next points?

38

39 Mr. C. Williams: The other one here was another issue that came up with the Commission last
40 time on maximum average unit size whether to require some limitations that unit size be reduced
41 or kept down to a certain limitation as opposed to being whatever is being included in the
42 project. We again are not recommending do that. That was done in SOFA where we think there
43 was a very specific plan for certain housing types in that and that worked. But we think that to
44 try to do that in a mixed use context is going to create a situation where residential is not going
45 be feasible in many of these particularly these smaller projects and that they won't work because
46 the FAR that is allowed for residential won't be anywhere near achievable because you won't be

1 able to park it if we limit the unit size. We might get some folks who do that but we want to
2 leave the flexibility in there.

3
4 Chair Holman: So, just for clarity so we can hopefully address this quickly. Any projects that
5 are mixed use that are four living units or more would come to us and at that point we could
6 require a mix of unit sizes for instance. But for the smaller projects not require the smaller unit
7 sizes. That is how it would lay out.

8
9 Mr. C. Williams: Right.

10
11 Chair Holman: Any comments?

12
13 Commissioner Keller: I have two quick comments. One is with respect to the site and design
14 review earlier for four units maybe that should be tied to four units or a square footage of
15 residential so that you think about if it is four units or less and the residential is less than a certain
16 amount of the square footage whatever that is because this way we would like to see maybe they
17 build big units, that is sort of weird. The second issue is that I would like to see come before us
18 figuring out how we can incentivize the things for which we are short in the Housing Element
19 and figure out how to encourage that. I am not sure this is the right way to do it but I think we
20 need to take a look at that at some point. Maybe that is for the Comp Plan.

21
22 Mr. C. Williams: It could be in multi-family.

23
24 Vice-Chair Lippert: It is going to be hard enough to get people to build mixed use anyway
25 whatever sizes they want to build, one big apartment up there, I am okay with it.

26
27 Chair Holman: Any other comments on that? In other words are we taking Staff
28 recommendation on that?

29
30 Commissioner Sandas: Yes, I would say stick with the original recommendation.

31
32 Commissioner Tuma: Yes.

33
34 Chair Holman: Okay, is that unanimous.

35
36 Commissioner Keller: I don't care enough, that's fine.

37
38 Chair Holman: Okay. All right.

39
40 Mr. C. Williams: So the two changes I have in the area of mixed use are for that height, 150 foot
41 on the height and use the same language as we talked about before with the commercial and then
42 on the open space to not count the rooftop gardens.

43
44 Chair Holman: Right, those will be addressed in the sustainability program.
45

1 Commissioner Keller: As well as the most restrictive in terms of setback and daylight plane in
2 terms of adjacency.

3
4 Mr. C. Williams: Right, that carries over from the previous language.

5
6 Chair Holman: Okay. Do we want to go to Fry's?

7
8 Commissioner Keller: Do we want to actually move that so that we can be on the record in
9 terms of a vote?

10
11 Chair Holman: I don't think we need to.

12
13 Mr. C. Williams: We can just do it overall when the whole thing is done I think.

14
15 So Fry's there are two changes that are proposed. One is an amendment that is due not to the
16 zoning code actually, it is to the sign regulations in 16.20 and it is written so that very large sites
17 over ten acres with lots of retail, over 50,000 square feet, without frontage on an arterial
18 roadway, the idea being that you don't have a lot of exposure in that situation and the City is
19 interested in assuring that retail of that size does have exposure, that we would look at that
20 similar to as if the site were on an arterial and allowed signage offsite on that closest arterial to
21 be the same size that it would otherwise be if it were located on the arterial.

22
23 So in this case what it would do at Fry's is that the existing 20 square foot sign or so could be
24 maximum allowed by our chart is about 65 square feet and the maximum height is about 25 feet
25 allowed by the chart in the sign code. So assuming that Fry's could find a willing property
26 owner to accommodate that then

27
28 Commissioner Sandas: That was going to be my clarifying question. Where would it go?

29
30 Mr. C. Williams: The existing sign is at the Footlocker site and whether they could convince
31 them to go for this there or not I don't know. I know there are difficulties doing that so it is a
32 practical issue that may override what we do there.

33
34 The second amendment is as we discussed before eliminating the July 16, 2019 amortization date
35 for Fry's so that it is still a nonconforming use, it is still restricted to the 60,000 square feet of
36 retail. It is still restricted to the truck delivery hours that are in there for nonconforming uses.
37 But it doesn't have the date hanging out there over us. Again, we believe that the Comp Plan
38 area study and the direction the Council gave us will result in some substantive zoning
39 discussions around Fry's well before that date.

40
41 MOTION

42
43 Chair Holman: I am going to actually make a motion on this to hopefully get this done more
44 quickly. Curtis, you were clear in saying that amending Chapter 18.94 will essentially have no
45 effect on the current use there or any other subsequent use there because of the constraints that
46 are in place now for the property. It will be subject to a study in the hopefully near future but no

1 time determined I think at this point but before 2019. I would move that we accept Staff
2 recommendation on that point.

3
4 SECOND

5
6 Commissioner Sandas: I second.

7
8 Chair Holman: Any discussion on that?

9
10 Commissioner Tuma: On the amortization?

11
12 Chair Holman: On the amortization only.

13
14 Commissioner Tuma: Let me ask a question. Something that was said earlier this evening if I
15 can think back that far. Prior to 2019 if Fry's were to move out anybody else as long the use
16 didn't change could move in? Is that right?

17
18 Mr. C. Williams: That could happen regardless of whether we change this date in here.

19
20 Commissioner Tuma: Right. But my understanding is the motivation behind changing this date
21 is to make a gesture to Fry's in particular and to for what it is worth given the timeframe 2019
22 but to signal to them that Palo Alto wants to keep them.

23
24 I am not convinced that getting rid of this amortization date accomplishes that. I think that Fry's
25 could – I am going beyond clarification

26
27 Chair Holman: Go ahead.

28
29 Commissioner Tuma: I have a problem with doing that given promises that were made to
30 members of the community. I know that there has been some outreach but I think we have
31 enough time to discuss this and to come up with a plan. Given the fact that it could go to
32 someone other than Fry's I am not sure this accomplishes it. I was present at the meeting where
33 City Council was discussing this and there was a lot of concern that Fry's won't be able to stay
34 there long term anyway because the site is going to need to be rehabilitated and they probably
35 wouldn't do that while they were there. They are going to either need to find another place in
36 Palo Alto or they are going to leave. But I think undoing some promises that were made here
37 without more discussion and more information is premature. So I have a real problem
38 supporting eliminating the amortization date as part of what we are doing tonight.

39
40 Chair Holman: A clarification. So undoing the promises that were made meaning that this was
41 zoned for housing. Is that the promise?

42
43 Commissioner Tuma: Yes, the amortization date would in fact come to pass, it was zoned for
44 housing and I just think it creates unnecessary friction in the community and we could deal with
45 this well before 2019 and still accomplish the same goals.

1 Chair Holman: Okay, I don't know which Commissioner Lippert.

2
3 Vice-Chair Lippert: I agree with Commissioner Tuma. What basically this represents is it takes
4 the time constraint off of it. It is a very long time constraint I mean we are talking about 13 years
5 in the future is when this amortization date comes into play. I can't believe that we cannot reach
6 a solution in the next 13 years as to how to deal with that piece of property. What I am
7 concerned with here is that what this represents ultimately is the fiscalization of land use and I
8 think that makes very bad land use policy. When you look at what a site is worth and what it
9 generates in terms of revenue for the city versus the use that it provides in the city. City Council
10 had a really great opportunity with the PTOD to adopt some really beefy regulations that would
11 have allowed Fry's to remain at the site and to also get some other uses there. When you do a
12 quick calculation we are talking about half a million (500,000) square feet, 12.5 acres of site
13 area. Fry's, which is only 60,000 square feet, is 11 percent. The site isn't even being fully
14 utilized to its maximum potential. So the opportunity here is that we can have we can have both
15 housing and commercial on that site. I feel as though we are making a very hasty decision here.

16
17 The other point is that I agree with you Fry's may not even stay there and we could be stuck with
18 a Safeway or some other commercial use that generates very low sales tax and that would be in
19 perpetuity because we have removed the amortization date. So this is really I think the elephant
20 in the living room.

21
22 I just want to make a quick comment about the signage. The signage is the same sort of deal
23 where we are looking very shortsighted and we are not looking long term.

24
25 Chair Holman: Commissioner Keller.

26
27 Commissioner Keller: I am sympathetic with the comments of Commissioner Tuma and
28 Commissioner Lippert. In particular what I heard as a justification for this is it doesn't matter so
29 why not do it. If it doesn't matter the same argument holds if it doesn't matter then why do it? It
30 seems to me that where my sympathies lie is we have basically – I understood that we have been
31 told to do a study of this area as part of the Comprehensive Plan. So I believe that piecemeal
32 regulation of this site deleting the amortization date is unnecessary because appropriate
33 opportunity to do that is as part of the Comp Plan Update, as part of the analysis that is being
34 done of the site where we will look at it in totality, where we will include the appropriate
35 community input so I think that not only is this unnecessary but it is a mistake to do it in this
36 incremental way.

37
38 That being said, if we want to give a message to Fry's saying we like you doing the sign
39 regulation is a tangible thing that encourages them and has some effect. I could imagine 'We Fix
40 Macs and Fry's' but the issue is that if the Footlocker doesn't want to do it. What is interesting
41 to me about this is that that's a tangible thing that actually has a positive impact on Fry's that at
42 the end of the day if we were to do that we could say we have done something that is positive for
43 Fry's being in its current location.

1 The July 16, 2019 amortization date does nothing in terms of encouraging Fry's to stay or not. It
2 has, as you said, no effect. In fact it might have a negative effect if Fry's were to leave and
3 another use where there that we would not be as pleased with.
4

5 Chair Holman: Commissioner Sandas.
6

7 Commissioner Sandas: I seconded the motion to get it on the floor and to get it discussed. I am
8 enjoying hearing the conversation and it just gave me an idea. We are losing some car
9 dealerships. There is a Ford dealership on El Camino that has evaporated in the last few weeks
10 and what a nice place for Fry's. Not that that is what we are here to discuss but Fry's isn't mixed
11 use so it could theoretically go into the auto dealership overlay area. Fry's may be looking in
12 this way too. So trying to hold them hostage may not work to our benefit at all.
13

14 Mr. C. Williams: We are working and will continue to work with Fry's to see if there are other
15 sites that fit them better too. So that is ongoing as well and we will explore those kinds of issues.
16 Again, the issue here is making, and I think it has been characterized pretty well as far as the
17 long term plans for Fry's amortization does not determine that but do we feel that that's a
18 valuable gesture to them that we are interested in working with them. If you don't think it is then
19 that is fine recommend against that.
20

21 The sign is certainly a much more tangible thing and I think it is very important to Fry's to get
22 increased offsite signage on El Camino.
23

24 Chair Holman: Commissioner Garber.
25

26 Commissioner Garber: Ignoring Fry's for a moment I agree with Commissioner Lippert's
27 comments that the site represents a certain opportunity for the City in terms of the potential uses
28 that it can support that as of right now have not been defined. They were about to be defined as
29 part of the PTOD but it is no longer there. So it represents I think some good opportunities for
30 the city to have mixed use, to have some of the uses that we have been talking about involved
31 with it and/or to be put back into the PTOD zone. That all said, is it then true that the
32 amortization there is no real benefit one way or the other? Again, ignore Fry's for a moment and
33 just look at the land and the use of the land what are the benefits to them removing that or
34 keeping that? It is still sort of unclear to me.
35

36 Mr. C. Williams: The benefits I think are primarily ones of perception, just perception of
37 whether and to what extent the City is making a gesture.
38

39 Commissioner Tuma: Does it foreclose?
40

41 Mr. C. Williams: No, as far as the planning for Fry's and what ultimately if there is ultimately a
42 rezoning and what that zoning would be and area plan whether the amortization date is there or
43 not doesn't make any difference in that. My feeling is these things are going to happen in the
44 next couple or three years well before the 2019 date.
45

1 Commissioner Tuma: If I might make two technical points. Oregon is defined as an arterial as
2 well in addition to El Camino?

3
4 Mr. C. Williams: I think it is defined as an expressway.

5
6 Commissioner Tuma: So it would be excluded from the placement of signage?

7
8 Mr. C. Williams: I would have to check on that but I think so. We said the nearest arterial so in
9 this case it is El Camino.

10
11 Chair Holman: I think it is excluded from signage.

12
13 Mr. C. Williams: That is another thing I think is excluded from signage, the street itself is.

14
15 Commissioner Tuma: Okay.

16
17 Chair Holman: That's it? Okay, I think Commissioner Keller was next and then Commissioner
18 Lippert and I don't think we need to spend a lot of time hashing this. It is not a make or break, it
19 is not going to make a lot of difference. I made the motion to try to get things rolling along and
20 that hasn't been successful. A quick comment.

21
22 Commissioner Keller: Firstly, regarding the Ford site at I would rather that be an expansion of
23 the Volvo car dealership.

24
25 Commissioner Sandas: Yes, whatever, I am not here making the recommendation.

26
27 Commissioner Keller: I am not thinking that for Fry's. Secondly, I am wondering and we may
28 not be able to do this because of what we have noticed but it seems to me that in some sense
29 what we want to do is freeze Fry's, freeze what is there unless it goes before the City Council. In
30 other words not allow it to change without City intervention. I am wondering if that is what we
31 really want rather than deleting the amortization can we put something on there that says that any
32 redevelopment of this site requires City Council approval in some sense. Is that possible?

33
34 Mr. C. Williams: I wouldn't touch the nonconforming section other than what we have
35 suggested at this point in time. Any redevelopment of the site is going to require approval. It is
36 either going to need to be done through existing zoning which would only limit it to residential.

37
38 Commissioner Keller: So if somebody wanted to tear it down and put all residential that would
39 not go before the City Council. What I am concerned about is that is exactly what happened to
40 the Hyatt property. What was allowed there was allowed without City Council intervention and
41 it turned into housing. So what we really want is not deleting the amortization it is freezing the
42 current use without City Council approval.

43
44 Mr. C. Williams: And you can't do that under the zoning.
45

1 Commissioner Tuma: Isn't that what City Council asked Staff to do is take a look at rezoning
2 that property.

3
4 Mr. C. Williams: Exactly.

5
6 Commissioner Tuma: So that we were going to look at that anyway. That process is in place.

7
8 Mr. C. Williams: Right.

9
10 Commissioner Tuma: That is not something that we can really deal with particularly tonight.

11
12 Mr. C. Williams: Fry's has a ___ year lease and they may not take it past that point anyway.

13
14 Vice-Chair Lippert: I think what is important here is not Fry's. Fry's doesn't have an agreement
15 with the City. All they do is they collect sales tax on what their sales are. What is important
16 here is the property owner and what they have there. The best that they can do – well, they have
17 a couple of options. Number one they have an amortization they could kick Fry's out at the end
18 of their lease and go ahead and build RM-30 housing there. They could do that tomorrow if they
19 could get Fry's out of there. That is their property right. Or it is contingent on this amortization
20 schedule. Well, they could put another retail in there. There are no guarantees as to what that
21 retail would be. That retail could very well wind up as I said being a supermarket or for that
22 matter it could be a Wal-Mart. That is why it is connected so heavily to the sign. Are you going
23 to want an eight by eight square sign saying Wal-Mart on El Camino Real? Can you live with
24 that? So that is what it really boils down to. What are the rights here of the property owner and
25 what is the best use for the citizens of Palo Alto not the fact that there is fiscalization of land use
26 here?

27
28 Mr. C. Williams: Okay, I think we have the sense that you are recommending against the
29 amortization. What about the signage?

30
31 Chair Holman: Well, we have to vote on it because there is a motion on the table.

32
33 Vice-Chair Lippert: I was going to make a substitute motion actually which I forgot. I move
34 that we recommend extending the amortization for one year and that would give us a change to
35 sort out a lot of these issues here. So instead of it being 2019 it would be 2020 and that gives the
36 gesture. I want to extend it for another year thereby it postpones it for another year, no?

37
38 Mr. C. Williams: That means 13 years from now already is.....

39
40 Chair Holman: Okay. I will withdraw the motion. It sounds like there is a majority that doesn't
41 want to remove the amortization and that is fine by me. Regarding the signage.

42
43 Commissioner Keller: I will move the sign.

44
45 Commissioner Garber: I had a question about the sign.

1 Chair Holman: Okay, go ahead.
2
3 Commissioner Garber: I think you need a second though if you just made a motion. Did you
4 make a motion?
5
6 Commissioner Keller: I was basically proposing the Staff recommendation for the signage as
7 specified that portion.
8
9 Commissioner Garber: I will second for discussion. So my question is if I have a store along El
10 Camino now what kind of sign can I put up there now? How does the sign ordinance read?
11
12 Mr. C. Williams: The sign ordinance allows you to have a sign that is height and sign size based
13 upon your frontage along El Camino, that distance and two tables that we have in the sign
14 ordinance that specify what those heights are. I don't know exactly what it is. I think we
15 attached the table.
16
17 Commissioner Garber: How big of a frontage would I need to be able to have a 65 square foot
18 sign?
19
20 Commissioner Keller: It is 150 feet for 25 feet high and 200 foot of frontage for the 65-foot
21 sign.
22
23 Mr. C. Williams: Yes.
24
25 Commissioner Garber: So 200 feet. So something like the shoe place that is right on the corner
26 down the street from Fry's.
27
28 Mr. C. Williams: Footlocker.
29
30 Commissioner Garber: Thank you. Is probably 75 to 100 feet maybe? Does that sound right?
31
32 Vice-Chair Lippert: Yes. I would say it is about 100.
33
34 Mr. C. Williams: Yes, probably.
35
36 Commissioner Garber: If I had a store that was that long would I want this sign that is 65 square
37 feet.
38
39 Mr. C. Williams: I should say that part of the reason for this coming up too besides just
40 generally the fact that Fry's is set back off of El Camino is that there is a large sign on Fry's right
41 now, signage on the side of the building, that you can see from certain vantage points along El
42 Camino. Once that Equinox Health Club is in that is going to be obscured to a large degree by
43 that new building. So that is one of Fry's biggest concern is that big sign they do have now is
44 useless after that building is constructed. So that is one of the reasons why we thought this was
45 justified to have something offsite.
46

1 Commissioner Tuma: I would be in support of allowing them to do that. My understanding is
2 that the primary motivation behind this is the gesture to Fry's. Is there some way we could
3 restrict it so that it is only Fry's?
4
5 Mr. C. Williams: I think it is.
6
7 Commissioner Tuma: Let's say a Wal-Mart moves in there. Could Wal-Mart then put up a sign
8 because of this? So long as it is Fry's it is fine.
9
10 Vice-Chair Lippert: It is not tenant specific.
11
12 Commissioner Tuma: Right, so could we make this recommendation tenant specific?
13
14 Vice-Chair Lippert: No.
15
16 Mr. C. Williams: No.
17
18 Chair Holman: I have a question too which is if the sign as proposed were are allowed you
19 mentioned that once Equinox goes in that the Fry's sign that exists on the building now would be
20 obscured by that building at least from some perspective. If this signage size that is proposed
21 would it not tend to block visibility of the Footlocker store?
22
23 Mr. C. Williams: I am sure Footlocker will not allow them to put it on their site if they think it
24 affects them. They have to get Footlocker's agreement to put it on their site if they want to do
25 that.
26
27 Chair Holman: It has to be on private property and the only place for it to be is on Footlocker
28 property is that correct?
29
30 Mr. C. Williams: It is not the only place.
31
32 Commissioner Keller: No, or We Fix Macs.
33
34 Mr. C. Williams: Office Depot is along there. So I know they talked about the difficulties in
35 negotiating with Footlocker. They would have to do that.
36
37 Chair Holman: Okay, I think Commissioner Garber was next.
38
39 Commissioner Garber: How tall is Fry's, that building?
40
41 Chair Holman: Not very tall.
42
43 Mr. C. Williams: No.
44
45 Vice-Chair Lippert: I would say 25 feet.
46

1 Commissioner Garber: I would guess 25 feet.
2
3 Chair Holman: Commissioner Lippert.
4
5 Vice-Chair Lippert: What I was going to say is that signage is a lot like gun control. You can't
6 ban people from having guns but you can at least regulate the kind of guns that they have. If an
7 AK-47 isn't appropriate then don't allow them. Say okay, you can carry a six-shooter or you can
8 have a rifle but not an AK-47 or a Tommy gun. In this case here we cannot regulate what they
9 say but we can at least regulate the volume at which they say that. I don't think anybody is
10 going to miss that corner with a reasonable size sign. But to have a sign out there that just
11 screams Fry's really doesn't do anything except to pollute the El Camino.
12
13 Chair Holman: Commissioner Keller.
14
15 Commissioner Keller: I am wonder the extent to which any signage such as this one goes
16 through some sort of review or can they just slap it up there?
17
18 Mr. C. Williams: The sign will go to ARB.
19
20 Commissioner Keller: So this basically allows....
21
22 Mr. C. Williams: We set maximum size and when they go to ARB the ARB could whittle that
23 down and they will determine the appropriate color and lighting associated with the sign.
24
25 Commissioner Keller: So is that clear that is amendment would still be subject to all the ARB
26 regulations and that this is not an entitlement?
27
28 Mr. C. Williams: Yes, right. I think our language says something about it is subject to all
29 other....
30
31 Chair Holman: What is the maximum height of signs right now?
32
33 Mr. C. Williams: Sign shall comply with all other regulations of this chapter and other
34 regulations of the chapter requiring ARB review.
35
36 Also if the total site signage for a sign based on the size of the frontage and it can't exceed the
37 total allowed on the site. They have to take away from signage somewhere else on the site.
38
39 Commissioner Tuma: It does now. They can still put signage on the site.
40
41 Mr. C. Williams: They could still put signage on the site but the total amount that is allowed for
42 their site. If they enlarge this sign then they have to take something away which is probably the
43 sign on the building that they would have to lose to keep the total in signage the same.
44
45 Chair Holman: What is the maximum height for a sign on El Camino? Not what is being
46 proposed for this but what is the maximum for any sign?

1
2 Mr. C. Williams: Twenty-five feet. That is the maximum in this table.
3
4 Commissioner Garber: Assuming you have a frontage of 200 feet.
5
6 Chair Holman: Right, right, okay.
7
8 Commissioner Tuma: Actually it goes from 200 to 150.
9
10 Chair Holman: I guess I am questioning how to support Fry's and also I have some of the same
11 concerns that Commissioner Lippert does. We don't have any example in front of us, no sketch
12 or anything, as far as size or what the impact might be. So I am wondering if we can split the
13 baby and allow an increase of the signage but not to the extent that is proposed here because this
14 is more than doubling.
15
16 Commissioner Garber: How big is the sign they have now?
17
18 Mr. C. Williams: My estimate was 24 to 30 square feet.
19
20 Chair Holman: What is being proposed is 65.
21
22 Mr. C. Williams: It is the same as the Footlocker sign.
23
24 Vice-Chair Lippert: I can split the baby. I would be willing to support that.
25
26 Commissioner Keller: The question that I have with the potential for splitting the baby is
27
28 Chair Holman: I am sorry I used that analogy. It is a horrible one. I apologize.
29
30 Commissioner Keller: Could you estimate the size of – right now there is a Fry's on top and
31 Footlocker on the bottom, is that right or the other way around? I am not sure which is which.
32
33 Mr. C. Williams: It is the other way around.
34
35 Commissioner Keller: Okay, so could you estimate the size of that overall combined sign?
36
37 Mr. C. Williams: Double what I am saying here so it is about 50 to 60 square feet.
38
39 Commissioner Keller: Okay, so what we are talking about is a sign that is the size of the
40 Footlocker and Fry's sign. Could you give me an idea of how tall the current sign is?
41
42 Mr. C. Williams: I was going to say 15 to 18.
43
44 Commissioner Keller: So what this would do is the ordinance as proposed and as I have moved
45 it basically allows 65 feet and 25-foot height. What I am wondering is whether the compromise

1 might be 65 feet in size and a shorter height as a way of compromise. I haven't made that
2 motion but I am sort of wondering what people think about that.

3
4 Vice-Chair Lippert: Height isn't the issue. The issue here is that keeping the right in perpetuity
5 for the site. So in essence when Fry's does vacate if they do and something else goes in there
6 that sign can change and the next tenant can use that sign. If the amortization continues and it
7 still remains RM-30 and a housing development goes in there the housing development could
8 still use that sign.

9
10 Mr. C. Williams: No they couldn't.

11
12 Vice-Chair Lippert: Why not?

13
14 Mr. C. Williams: Because it has to have a minimum of 50,000 square feet of retail.

15
16 Vice-Chair Lippert: So it has to be attached to the retail component. So if PTOD goes in there
17 they get to keep it.

18
19 Mr. C. Williams: If there is retail over 50,000 square feet.

20
21 Mr. R. Williams: If it went PTOD then you would have a new zoning designation and all of that
22 would....

23
24 Chair Holman: If Fry's was taken out of that scenario anyway.

25
26 Mr. R. Williams: I am just saying....

27
28 Commissioner Keller: Well, we don't have any regulation for what zoning this is. So if it went
29 PTOD and it had 50,000 square feet of retail and it were a ten-acre site it could have a sign.
30 While I am sympathetic with Commissioner Lippert's comments because every time I drive by
31 the former Circle Star Theater on Highway 101 for which signage was allowed because of
32 advertising the Circle Star Theater and since then the Circle Star Theater is now history and the
33 signage remains. I am sympathetic with that idea. What I am wondering as a potential
34 compromise, and I am trying to float this as a trial balloon, is to allow the signage to exist only
35 until the time that the Comp Plan Update happens and we evaluate what goes on for that sight
36 and then we can consider whether a sign will be allowed in the future.

37
38 Chair Holman: Amortize the sign.

39
40 Commissioner Keller: We will amortize the sign. I would suggest an amortization of the sign –
41 we allow a sign through December 31, 2010 by which time the Comp Plan Update will have
42 been done.

43
44 Mr. C. Williams: What was your suggestion?
45

1 Vice-Chair Lippert: I thought going with one barrel as opposed to two and just going with a
2 smaller sign. Maybe 45 or 50 square feet.

3

4 Chair Holman: Do you want to make that motion?

5

6 Commissioner Garber: That would be a substitute motion.

7

8 Chair Holman: Yes, that would be a substitute motion.

9

10 SUBSTITUTE MOTION

11

12 Vice-Chair Lippert: Okay, my substitute motion would be going with a permitted sign instead of
13 65 square feet it would be 50 square feet and the 25 foot height doesn't bother me.

14

15 SECOND

16

17 Chair Holman: I would second that.

18

19 Commissioner Keller: I am wondering if you would be interested in an amendment to amortize
20 that sign through 2010?

21

22 Vice-Chair Lippert: I think that is far too complex. Sorry.

23

24 Chair Holman: Okay, I am going to call the question. We are going to vote on the substitute
25 motion barring any frantic palms I see fly into the air.

26

27 Commissioner Tuma: Just to clarify, the motion is we adopt the recommendation with the

28

29 Chair Holman: Amending the size to 50 feet.

30

31 Commissioner Tuma: Right.

32

33 Vice-Chair Lippert: Instead of 65.

34

35 MOTION PASSED (4-1-1-1, with Commissioner Garber opposed, Commissioner Sandas
36 abstaining and Commissioner Burt absent)

37

38 Chair Holman: All those in favor? (ayes) Opposed? (nay)

39

40 Commissioner Sandas: Abstain, incompetence.

41

42 Chair Holman: That motion passes on a vote of four –one—one, with Commissioner Burt
43 absent.

44

45 Mr. C. Williams: I think we need a motion to adopt the ordinance with all the changes that we
46 made.

1
2 Chair Holman: I was going to ask one more question first which is we went through hopefully
3 the Staff Report. I do not want to overlook though are there any specific questions having to do
4 with the ordinance that you marked up that need to be addressed that we have not otherwise
5 addressed. Yes.
6
7 Commissioner Garber: Just one question on page six, the context-based design criteria.
8 Anything we wanted to do with that section?
9
10 Chair Holman: Page six of the Staff Report?
11
12 Commissioner Garber: Yes.
13
14 Mr. C. Williams: That is part of the ordinance and we said it was the same as what you saw in
15 the PTOD and it will be ultimately.....
16
17 Commissioner Garber: Are you looking for any discussion?
18
19 Mr. C. Williams: No.
20
21 Commissioner Garber: Thank you.
22
23 Chair Holman: Commissioner Keller.
24
25 Commissioner Keller: Yes, I have a few notes on my list. The first is in my reading of CDS and
26 CDN it says that you can't add office use if it is already 5,000 or more but I am wondering
27 whether you could if there is 4,000 whether based on the arcane wording that is there if
28 somebody could put an additional 3,000 that makes it 7,000 and pushes it over. So I would just
29 suggest that you consider that wording so that you don't have the unintended consequence that
30 you can add it if it is less than but it exceeds. Does that make any sense? Do you understand
31 what I am getting at?
32
33 Mr. C. Williams: I think I do.
34
35 Commissioner Keller: Just because it is worded in an obscure way. Page nine, it says no new
36 growth square footage of medical, professional, general business or administrative use shall be
37 allowed once the gross square footage of such office uses or any combination of such uses on a
38 site has reached 5,000 square feet. The unfortunate wording of that is that if it is less than 5,000
39 it could be made to over 5,000. So I am not a wordsmith but that is how I read this and I have
40 seen how people twist things around so I am concerned about both of those.
41
42 Mr. C. Williams: It hasn't been twisted yet.
43
44 Commissioner Keller: But that was said about

1 The other issue is do we want to allow single-family residences or double family residence, sort
2 of duplexes if you will, as part of mixed use or do we want higher density as part of mixed use. I
3 am just wondering we haven't addressed that issue. Do we not care?
4

5 Mr. C. Williams: We have addressed it because we have prohibited single family and duplex use
6 in these zones whereas it is allowed right now. We have under multi-family uses under the
7 permitted uses. You will see that it is a permitted use with the asterisk that it is only permitted as
8 part of a mixed use project. So we are looking at not single family.
9

10 Commissioner Keller: Well, what I am referring to is a situation where somebody might
11 subdivide property and put single family along the back and reduce the property along that way.
12 So I am wondering whether that is something – whether we really want multi-family complexes
13 as part of this or whether if somebody puts a couple of single family standalone units in the back
14 under some sort of weird arrangement that that's what is mixed use.
15

16 Mr. C. Williams: A couple of things with that. One is that if they wanted to do that if they want
17 to do them as single family, separate lots type of development, then they most likely are going to
18 have to subdivide to do that and they most likely will have to rezone it to do that and that would
19 make sense to have a buffer against the residential area to have it rezoned because you really
20 wouldn't want it to be zoned in a commercial zone and have those residential lots because they
21 could do things you wouldn't like to have them do. The other thing is that when we come
22 forward with the multi-family chapter we will have Village Residential, it may or may not be
23 called that name, but a development type that allows for under multi-family at least individual
24 small lots and row houses and some of those types of things that would be more appropriate
25 transitions. They would actually have a single-family flavor to them but they would be called
26 multi-family so they would be consistent with this in terms of allowing multi-family as a part of
27 mixed use.
28

29 Commissioner Keller: So, would Staff be sympathetic with the idea that in the event of a
30 subdivision in which some of the property was not to be commercial that the FAR requirements
31 would be based on the pre-subdivision amount so that you don't wind up losing retail through
32 subdivision?
33

34 Mr. C. Williams: I think we would have to see that as it goes through the process and see if that
35 made sense. There are some sites that if you subdivided in the back to put R-1 lots there and
36 rezoned it to R-1 it might make sense to not be granting extra retail.
37

38 Commissioner Keller: Well, you are actually granting less retail because
39

40 Mr. C. Williams: You could exclude those lots.
41

42 Commissioner Keller: Right. I am concerned about losing retail but by doing this we set up
43 rules for how much retail there is in a mixed use project and then you are subdividing off a
44 certain amount as SFR or duplex or whatever. As a result of that the amount of retail that you
45 are requiring is now less than was originally required.
46

1 Mr. C. Williams: I am not worried about that. We would have to look at that.

2
3 Chair Holman: If I might, I think the intention of this exercise is to get the real kind of burning
4 issues to Council in a timely manner. While the points you bring up may well be valid I don't
5 think that we can probably particularly address the less likely even though potential in this
6 timeframe.

7
8 Commissioner Keller: I wonder if simply we can require that any subdivision of commercial
9 property require some Council approval.

10
11 Chair Holman: Commissioner Garber.

12
13 Mr. C. Williams: Subdivisions go to Council.

14
15 Commissioner Garber: Right. What you are describing is what maybe understood as a potential
16 loophole. But it really doesn't exist because as soon as you looked at subdividing all bets are off.
17 You have to essentially start at step one and back through all the processes which is going to take
18 you back through this organization, this Commission, ARB, Council, etc. so you are back on a
19 completely different track which is going to take you through the full process. None of those
20 things get – what I would not want to do is try and legislate causally what happens given a
21 specific instance. That is specifically why you have the process in place to address the specific
22 ones that come up.

23
24 Commissioner Keller: Well, a critical case in point if you wish is the Elk's property for which
25 three parcels are being subdivided off and that is going through a ministerial process and then
26 they are asking for additional properties to be subdivided off and that is another issue. I am
27 wondering whether we want this sort of subdivision of commercial property to go only through a
28 ministerial process.

29
30 Commissioner Garber: It has to get remapped, right? At the very least it has to be remapped so
31 it has to come back through us. At the very least it has to come back through us.

32
33 Mr. C. Williams: On those parcels they are mostly R-1 parcels. That strip is zoned R-1. So it is
34 not all commercial to start with on that property. Like I told you yesterday it is also trying to
35 subdivide it we are going to consider it to be a major subdivision and it is going to go through the
36 whole process. They subdivided three lots off that R-1.

37
38 Chair Holman: Are we about there?

39
40 Commissioner Keller: I thought it was an important issue to bring up since it is relevant to what
41 is going on and what we are actually seeing. So that is why – I am not sure many people are
42 aware that that was actually going on.

43
44 I think that the residents in the area probably are happy with the R-1s being created but I think
45 that we have to be careful about

1 Chair Holman: I had just one quick question. On 18.16.040 under land use under retail use, and
2 this is not a change but shopping centers are not allowed in CN or CS and I just wondered how
3 that married with potentially doing a neighborhood center in south El Camino. In the redline
4 version it is page five of 18.16.040.

5
6 Mr. C. Williams: It isn't a change.

7
8 Chair Holman: I know it is not a change.

9
10 Mr. C. Williams: It does allow grocery stores. It does allow a lot of other retail. Let's see the
11 definition of shopping center is. Okay, a shopping center has to be at least one million square
12 feet and a total site area of at least 50 acres.

13
14 Chair Holman: Okay. Should have looked up the definition. Okay.

15
16 Mr. C. Williams: That is good. Logically that makes sense. We specifically defined it here.

17
18 Chair Holman: Okay.

19
20 Vice-Chair Lippert: I have one question.

21
22 Chair Holman: Yes.

23
24 Vice-Chair Lippert: We didn't vote on the amortization.

25
26 Chair Holman: We took a straw poll on that one.

27
28 Vice-Chair Lippert: I just wanted to make sure.

29
30 Mr. C. Williams: We need an overall motion that will say all of that stuff.

31
32 Chair Holman: So who would like to make the motion to approve the Staff's recommendation
33 with all the amendments that we made this evening?

34
35 Commissioner Keller: I am not going to make the motion but I would like the list of things to be
36 mentioned just to be clear.

37
38 MOTION

39
40 Commissioner Garber: So moved.

41
42 SECONDED

43
44 Commissioner Sandas: Seconded.

45

1 Commissioner Keller: I just think for the record it would worthwhile repeating what all the
2 changes were so that we make sure we agree on it.

3
4 Mr. C. Williams: In the commercial district CUPs were going to be for abutting properties or
5 residential properties within 50 feet. The residential transition requirements for height are again
6 abutting properties or within 50 feet and within that provision for other than where RM-40 or PC
7 residential zones are abutting. These are the exceptions to the Staff recommendation I am
8 reading. Then on the mixed use the setbacks and daylight planes will be the most restrictive
9 abutting residential use. The height we would do the same language about abutting or within 50
10 feet and then 150 feet. Rooftop gardens don't count as open space.

11
12 Chair Holman: And will come back to us as part of the sustainability program.

13
14 Mr. C. Williams: Right. Then also on the Site and Design will report back to you on as those
15 projects come in at least the first year and see what you think. Then no change to the
16 amortization language and the signage as proposed limiting the size to 50 square feet.

17
18 Commissioner Keller: I think there was one other, which was the CN mixed use requirements on
19 El Camino the .1 density bonus will have to be retail.

20
21 Chair Holman: Yes.

22
23 Commissioner Sandas: So Commissioner Garber made the motion.

24
25 MOTION PASSED (6-0-0-1, with Commissioner Burt absent)

26
27 Chair Holman: We have a motion on the floor if there are no comments we will call the vote.
28 All those in favor? (ayes) Opposed? That passes on a six to zero vote with Commissioner Burt
29 absent.

30
31 Thank you Staff very much.

32
33 *APPROVAL OF MINUTES*: None.

34
35 Chair Holman: Any Reports from Officials or Committees? Seeing none.

36
37 ***REPORTS FROM OFFICIALS/COMMITTEES.***

38
39 ***COMMISSION MEMBER QUESTIONS, COMMENTS, AND/OR ANNOUNCEMENTS.***

40
41 Chair Holman: Commission representation is decided.

42
43 This is important we have a Retreat coming up November 8 and if you would email to me and to
44 Zariah and to Commissioner Lippert anything that you would like have included in that. We will
45 accumulate those and come up an agenda that will be noticed in the paper. We need those
46 comments by Friday, well let's shoot for Monday let's say.

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Mr. C. Williams: Monday is a holiday.

Chair Holman: It is so Tuesday. So let's have all of those comments then to Zariah, Vice-Chair Lippert and myself by Commissioner Garber's birthday, next Tuesday. Is that what you said?

Commissioner Keller: No it is Curtis's birthday.

Chair Holman: Okay. I think that concludes our agenda. I call this meeting adjourned.

NEXT MEETING: Regular Meeting of October 11, 2006.

ADJOURNED: 11:30 PM