NOT YET APPROVED

ORDINANCE NO. _____
ORDINANCE OF THE COUNCIL OF THE CITY OF PALO ALTO
AMENDING SECTION 18.08.040 OF THE PALO ALTO MUNICIPAL
CODE (THE ZONING MAP) TO CHANGE THE CLASSIFICATION OF
PROPERTY AT 449-451 ADDISON AVENUE, FROM TWO-FAMILY
RESIDENTIAL DISTRICT (R-2) TO PC PLANNED COMMUNITY

The Council of the City of Palo Alto does ORDAIN as follows:

SECTION 1. Section 18.08.040 of the Palo Alto Municipal Code, (the Zoning Map), is
hereby amended by changing the zoning of certain property at 449-451 Addison Avenue from Two
Family Residential District (R-2) to PC Planned Community _____.

SECTION 2. The City Council hereby finds that:

(a) The property may not be subdivided into two parcels and a flag lot could not be
created under the current zoning for the property. Accordingly, the PC zone change is necessary
pursuant to Ordinance No. 3048 establishing PC Planned Community District Regulations in 1978.

(b) The Planning Commission, after a duly noticed public hearing held November 28,
2007 has recommended that Section 18.08.040 (the Zoning Map) of the Palo Alto Municipal Code
be amended to permit the subdivision of an existing R-2 zoned lot for the benefit of preserving both
existing historically designated residences. The preservation will be achieved by placing legal
restrictions and covenants on each property.

(c) The proposed amendment is in the public interest and will promote the public
health, safety and welfare, as hereinafter set forth.

(d) Modification of the existing zoning to permit the subdivision of an existing R-2
zoned lot for the benefit of preserving both existing historically designated residences is consistent
with the Palo Alto Comprehensive Plan. In particular:

(i) Development of the site under the provisions of the PC Planned
Community District will result in public benefits not otherwise attainable by application of the
regulations of General Districts or combining Districts. Creating the Planned Community zone
regulations allowing the subdivision of the parcel into two separate parcels or the benefit of
preserving both historic residences by legal covenant and restriction are supported by the following
Comprehensive Plan Policies:

a. Policy L-12: Preserve the character of residential neighborhoods
b. Policy L-51: Encourage public and private upkeep and preservation of resources that have historic merit, including residences listed in the Historic Inventory.

c. Policy L-57: Develop incentives for the retention and rehabilitation of buildings with historic merit in all zones.

   (ii) The proposed uses shall include only single-family housing consistent with current Zoning and R-1 Zone adjacent uses.

   (e) The site is so situated, and the use or uses proposed for the site are of such characteristics that the application of general districts or combining districts will not provide sufficient flexibility to allow the proposed development.

   (f) The use or uses permitted, and the site development regulations applicable within the district are consistent with the Palo Alto comprehensive plan, and are compatible with existing and potential uses on adjoining sites or within the general vicinity.

SECTION 3. The Council has reviewed and considered the proposed site plan and agreements and declarations of covenants and restrictions for historic preservation for 449 Addison Avenue and 451-453 Addison Avenue.

SECTION 4. The diagrams prepared by ______________________ on ____________, and the diagrams prepared by ________________, Architect dated ________________, copies of which are on file with the Planning Department of the City of Palo Alto, are incorporated herein by this reference and hereby are approved pursuant to Section 18.68.070 of the Palo Alto Municipal Code subject to the following conditions:

1. Permitted Uses/Conditions.

   (a) The proposed uses shall include on single-family housing consistent with current Zoning and R-1 Zone adjacent uses.

   (b) The Project will be conditioned on the recordation of Historic Preservation Covenants for both homes ensuring protection of these historic buildings. The rear building, 449 Addison, is a Category IV Historic Structure and the front building, 451 Addison, is a Category II Historic Structure.

   (c) The Project will be conditioned by requiring that any future renovation of the structure shall be in accordance with the Historic Rehabilitation Standards of the Secretary of the Department of the Interior through compliance with Historic Resources Board review and recommendations.
SECTION 5. This ordinance shall be effective on the thirty-first day after the date of its adoption.

INTRODUCED:

PASSED:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

ATTEST:  

______________________________
City Clerk

APPROVED:

______________________________
Mayor

APPROVED AS TO FORM:

______________________________
City Manager

______________________________
Assistant City Attorney

______________________________
Director of Planning and Community Environment
This document is recorded for the benefit of the City of Palo Alto and is entitled to be recorded free of charge in accordance with Section 6103 of the Government Code. After Recordation, mail to:

OFFICE OF THE CITY ATTORNEY
250 Hamilton Avenue
Palo Alto, CA 94301

AGREEMENT AND DECLARATION OF COVENANTS AND RESTRICTIONS FOR HISTORIC PRESERVATION

449 Addison Avenue
Assessor's Parcel 120-17-057 (to change after lot split)

This AGREEMENT AND DECLARATION OF COVENANTS AND RESTRICTIONS FOR HISTORIC PRESERVATION AND CERTIFICATION OF TRANSFER OF DEVELOPMENT RIGHTS is entered into as of _____, 2008, by and between Margo R. Schmidt, An Unmarried Woman and Leon D. Schmidt (AKA Lee Schmidt) An Unmarried Man as tenants in common ("Covenanter"), and the CITY OF PALO ALTO, a California chartered city and municipal corporation ("City").

RECITALS:

A. Covenanter is the owner of a parcel of real property, (the "449 Historic Site"), generally located at 449 Addison Avenue, City of Palo Alto, County of Santa Clara, State of California and more particularly described in Exhibit "A" attached to this document and a part of it. The Historic Site has been included in the City's Historic Inventory as a Category IV Property.

B. To promote the preservation and rehabilitation of the Historic Site, the 449 Historic Site and the adjacent property known as 451-453 Addison Avenue (the "451-453 Historic Site") have been subdivided into two separate legal parcels pursuant to a Planned Community Zone District ("PC Zone") and a parcel map. As a condition to the PC Zone, the 449 Historic Site and the 451-453 Historic Site must be developed and maintained in conformance with the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings.
C. The Covenantor acknowledges and agrees that the covenants and restrictions in this Declaration are reasonable and acceptable conditions in an exchange for benefits received by Covenantor.

AGREEMENT:

NOW, THEREFORE, Covenantor declares and covenants as follows:

1. **449 Historic Site Shall Be Rehabilitated and Maintained as Historic Property.** The 449 Historic Site shall be burdened by the following restriction, which shall run with the 449 Historic Site and be binding upon the successors and assigns of Covenantor, and that the 449 Historic Site shall be held, used, sold, conveyed, pledged, mortgaged and leased subject to and in accordance with the following restriction:

   The building and improvements existing on the 449 Historic Site as of the date of this Declaration shall be rehabilitated and maintained in accordance with the Secretary of the Interior's Standards for Rehabilitation of Historic Buildings, issued by the National Park Service, (36 Code of Federal Regulations Part 67) together with the accompanying interpretive Guidelines for Rehabilitating Historic Buildings, as they may be amended from time to time.

2. **Covenants Running with the Land.** The covenants set forth herein shall be covenants running with the land and shall be binding upon Covenantor and its legal representatives, heirs, successors and assigns. Each of the covenants of the Covenantor is expressly made for the benefit of the City of Palo Alto, and shall run with and burden the 449 Historic Site. This Agreement is intended to be binding upon and enforceable against successive owners of the 449 Historic Site under all applicable provisions of California law, including but not limited to Section 1468 of the California Civil Code.

3. **Assumption by Transferee.** Covenantor and any "Permitted Transferee," as hereinafter defined, agree and covenant not to transfer the 449 Historic Site except to a person or entity that expressly assumes all of the obligations of Covenantor hereunder with respect to the Historic Sender Site. A "Permitted Transferee" is any person or entity that agrees in writing to assume all of the obligations of Covenantor hereunder with respect to the 449 Historic Site.
4. **Enforcement and Legal Expenses.** City shall have the right to pursue any remedy at law or equity to secure Covenantor's compliance with the agreement, covenant and restrictions in this Declaration. If any legal action or proceeding is brought by City because of any default of Covenantor or to enforce a provision of this Declaration, the prevailing party shall be entitled, in addition to any other relief, to recover reasonable attorneys' fees and court costs from the losing party as determined by the court in which said action or proceeding is pending. The failure to enforce any of the agreements, covenants and restrictions set forth herein shall not be deemed to be a waiver of the right to do so thereafter.
IN WITNESS WHEREOF, the parties have executed this Agreement and Certification on the dates set forth below.

CITY OF PALO ALTO, a California municipal corporation

Margo R. Schmidt and Leon D. Schmidt, as tenants in common

Assistant City Manager

Director of Planning and

APPROVED AS TO FORM:

By: __________________________
Margo R. Schmidt

Dated: _________________________

By: __________________________
Leon D. Schmidt

Dated: _________________________

Sr. Deputy City Attorney
This document is recorded for the benefit of the City of Palo Alto and is entitled to be recorded free of charge in accordance with Section 6103 of the Government Code.

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250 Hamilton Avenue
Palo Alto, CA 94301

AGREEMENT AND DECLARATION OF COVENANTS AND RESTRICTIONS FOR HISTORIC PRESERVATION

451-453 Addison Avenue
Assessor's Parcel 120-17-057 (to change after lot split)

This AGREEMENT AND DECLARATION OF COVENANTS AND RESTRICTIONS FOR HISTORIC PRESERVATION AND CERTIFICATION OF TRANSFER OF DEVELOPMENT RIGHTS is entered into as of _____, 2008, by and between Margo R. Schmidt, An Unmarried Woman and Leon D. Schmidt (AKA Lee Schmidt) An Unmarried Man as tenants in common ("Covenantor"), and the CITY OF PALO ALTO, a California chartered city and municipal corporation ("City").

RECITALS:

A. Covenantor is the owner of a parcel of real property, (the "451-453 Historic Site," generally located at 451-453 Addison Avenue, City of Palo Alto, County of Santa Clara, State of California and more particularly described in Exhibit "A" attached to this document and a part of it. The Historic Site has been included in the City's Historic Inventory as a Category II Property.

B. To promote the preservation and rehabilitation of the Historic Site, the 451-453 Historic Site and the adjacent property known as 449 Addison Avenue (the "449 Historic Site") have been subdivided into two separate legal parcels pursuant to a Planned Community Zone District ("PC Zone") and a parcel map. As a condition to the PC Zone, the 451-453 Historic Site and the 449 Historic Site must be developed and maintained in conformance with the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings.
C. The Covenantor acknowledges and agrees that the covenants and restrictions in this Declaration are reasonable and acceptable conditions in an exchange for benefits received by Covenantor.

AGREEMENT:

NOW, THEREFORE, Covenantor declares and covenants as follows:

1. **451-453 Historic Site Shall Be Rehabilitated and Maintained as Historic Property.** The 451-453 Historic Site shall be burdened by the following restriction, which shall run with the 451-453 Historic Site and be binding upon the successors and assigns of Covenantor, and that the 451-453 Historic Site shall be held, used, sold, conveyed, pledged, mortgaged and leased subject to and in accordance with the following restriction:

   The building and improvements existing on the 451-453 Historic Site as of the date of this Declaration shall be rehabilitated and maintained in accordance with the Secretary of the Interior's Standards for Rehabilitation of Historic Buildings, issued by the National Park Service, (36 Code of Federal Regulations Part 67) together with the accompanying interpretive Guidelines for Rehabilitating Historic Buildings, as they may be amended from time to time.

2. **Covenants Running with the Land.** The covenants set forth herein shall be covenants running with the land and shall be binding upon Covenantor and its legal representatives, heirs, successors and assigns. Each of the covenants of the Covenantor is expressly made for the benefit of the City of Palo Alto, and shall run with and burden the 451-453 Historic Site. This Agreement is intended to be binding upon and enforceable against successive owners of the 451-453 Historic Site under all applicable provisions of California law, including but not limited to Section 1468 of the California Civil Code.

3. **Assumption by Transferee.** Covenantor and any "Permitted Transferee," as hereinafter defined, agree and covenant not to transfer the 451-453 Historic Site except to a person or entity that expressly assumes all of the obligations of Covenantor hereunder with respect to the Historic Sender Site. A "Permitted Transferee" is any person or entity that agrees in writing to assume all of the obligations of Covenantor hereunder with respect to the 451-453 Historic Site.
4. **Enforcement and Legal Expenses.** City shall have the right to pursue any remedy at law or equity to secure Covenantor's compliance with the agreement, covenant and restrictions in this Declaration. If any legal action or proceeding is brought by City because of any default of Covenantor or to enforce a provision of this Declaration, the prevailing party shall be entitled, in addition to any other relief, to recover reasonable attorneys' fees and court costs from the losing party as determined by the court in which said action or proceeding is pending. The failure to enforce any of the agreements, covenants and restrictions set forth herein shall not be deemed to be a waiver of the right to do so thereafter.
IN WITNESS WHEREOF, the parties have executed this Agreement and Certification on the dates set forth below.

CITY OF PALO ALTO, a California municipal corporation

Margo R. Schmidt and Leon D. Schmidt, as tenants in common

Assistant City Manager

By: ______________________
Margo R. Schmidt

Dated: ________________

Director of Planning and

By: ______________________
Leon D. Schmidt

APPROVED AS TO FORM:

Dated: ________________

Sr. Deputy City Attorney
449-451 Addison Avenue
Development Program Statement

1. REQUIRED DETERMINATIONS FOR PC ZONE DISTRICT AMENDMENT.

The PC Zone is intended to accommodate developments requiring flexibility under controlled conditions not otherwise attainable under other zone districts. The PC Zone is particularly intended for development that is of substantial public benefit and that complies with, and enhances, the policies and programs of the Palo Alto Comprehensive Plan. The 449-451 Addison project is such a project.

PAMC 18.68.060, which governs PC Zone Districts, sets forth three required determinations necessary for adopting a PC Zone District:

(a) The site is so situated and the use, or uses, proposed for the site are of such characteristics that the application of general districts, or combining districts, will not provide sufficient flexibility to allow the proposed development.

The site is a parcel consisting of 10,000 square feet in the R-2 Zoning District. The parcel is improved with three structures: (1) a single-family home currently used as a duplex of 1,454 square feet (which will be converted to a single-family home); (ii) a second unit consisting of 846 square feet; and (iii) a 2-car garage consisting of 428 square feet. Attachment #1 shows the existing site plan identifying the three structures. The total FAR of 2,728 square feet is far below the allowed 3,750 square feet.

The objective of this Application is to create two separate legal parcels with each parcel improved with one single-family home and sharing the existing 2-car garage. Attachment #2 shows the proposed Subdivision Plan creating the two parcels. Access to the garage would be provided by a shared driveway access easement across the front of Lot #1.

The property may not be subdivided into 2 parcels and a flag lot could not be created under current zoning for the property. Accordingly, the PC Zone Change is necessary.

(b) Development of the site under the provisions of the PC Planned Community District will result in public benefits not otherwise attainable by application of the regulations of General Districts or Combining Districts. In making the findings required by this Section, the Planning Commission and City Council,
as appropriate, shall specifically cite the public benefits expected to result from the use of the Planned Community District.

(c) There are several substantial public benefits for the 449-451 Addison Project:

First, the Project will be conditioned on the recordation of Historic Preservation Covenants for all three structures ensuring protection of these historic buildings. The rear building, 449 Addison, is a Category IV Historic Structure and the front building, 451 Addison and the garage, are Category II Historic Structures.

Second, the Project will be conditioned by requiring that any future renovation of the structures shall be in accordance with the Historic Rehabilitation Standards of the Secretary of the Department of the Interior.

Third, the Project will be conditioned by prohibiting future expansion of the building area on the two parcels to be created.

(d) The use or uses permitted, and the site development regulations applicable within the District, shall be consistent with the Palo Alto Comprehensive Plan and shall be compatible with existing and potential uses on adjoining sites, or within the general vicinity.

2. PERMITTED USES WITHIN THE PC ZONE DISTRICT.

The proposed uses shall include only single-family housing consistent with current Zoning and R-1 Zone adjacent uses.

3. PROPOSED SCHEDULE

The Project Schedule is anticipated to be within the time frames set forth below:

P&TC PC Zone Hearing 11.28.2007
City Council First Reading 1.14.2008

If the City Council approves the PC Zone the subsequent steps in the process would be as follows:

(a) File for Preliminary Parcel Map on or before April 1, 2008

(b) Perform Garage Renovation Work on or before October 31, 2008

(c) File Final Map on or before March 31, 2009
ATTACHMENT E
ZONING COMPLIANCE TABLE
449 Addison Ave
07PLN-00141

Note, this zoning compliance table is for the street-adjacent front lot of the resulting subdivision. Also note that this compliance examination is based upon the underlying R-2 zoning designation.

<table>
<thead>
<tr>
<th>Regulation</th>
<th>Required</th>
<th>Proposed</th>
<th>Conformance</th>
</tr>
</thead>
<tbody>
<tr>
<td>Minimum Site Area</td>
<td>6,000 s.f.</td>
<td>5,000 s.f.</td>
<td>Does not conform</td>
</tr>
<tr>
<td>Min. Site Width</td>
<td>60 feet</td>
<td>50 feet</td>
<td>Does not conform</td>
</tr>
<tr>
<td>Min. Site Depth</td>
<td>100 feet</td>
<td>100 feet</td>
<td>Conforms</td>
</tr>
<tr>
<td>Front Setback</td>
<td>20 feet</td>
<td>23 feet</td>
<td>Conforms</td>
</tr>
<tr>
<td>Interior Side Yard</td>
<td>6 feet</td>
<td>6 feet</td>
<td>Conforms</td>
</tr>
<tr>
<td>Street Side Setback</td>
<td>16 feet</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>Rear Setback</td>
<td>20 feet</td>
<td>34 feet</td>
<td>Conforms</td>
</tr>
<tr>
<td>Floor Area Ratio</td>
<td>2,250 s.f.</td>
<td>1,400 s.f.</td>
<td>Conforms</td>
</tr>
<tr>
<td>Lot Coverage</td>
<td>1,750 s.f.</td>
<td>&lt; 1,400 s.f.</td>
<td>Conforms</td>
</tr>
<tr>
<td>Building Height</td>
<td>30 feet</td>
<td>N/A</td>
<td>Existing, not affected by lot line adjustment.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Table 2: CONFORMANCE WITH CHAPTER 18.10.060 (Parking)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Parking Spaces</td>
</tr>
<tr>
<td>----------------</td>
</tr>
<tr>
<td>Covered Parking</td>
</tr>
<tr>
<td>Uncovered Parking</td>
</tr>
</tbody>
</table>
ATTACHMENT E
ZONING COMPLIANCE TABLE
451-453 Addison Ave
07PLN-00141

Note, this zoning compliance table is for the rear lot of the resulting subdivision. Also note that this compliance examination is based upon the underlying R-2 zoning designation.

<table>
<thead>
<tr>
<th>Regulation</th>
<th>Required</th>
<th>Proposed</th>
<th>Conformance</th>
</tr>
</thead>
<tbody>
<tr>
<td>Minimum Site Area</td>
<td>6,000 s.f.</td>
<td>5,000 s.f.</td>
<td>Does not conform</td>
</tr>
<tr>
<td>Min. Site Width</td>
<td>60 feet</td>
<td>50 feet</td>
<td>Does not conform</td>
</tr>
<tr>
<td>Min. Site Depth</td>
<td>100 feet</td>
<td>100 feet</td>
<td>Conforms</td>
</tr>
<tr>
<td>Front Setback</td>
<td>20 feet</td>
<td>59 feet</td>
<td>Conforms</td>
</tr>
<tr>
<td>Interior Side Yard</td>
<td>6 feet</td>
<td>5 feet</td>
<td>Legal Non-Conforming</td>
</tr>
<tr>
<td>Street Side Setback</td>
<td>16 feet</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>Rear Setback</td>
<td>20 feet</td>
<td>12 feet</td>
<td>Legal Non-Conforming</td>
</tr>
<tr>
<td>Floor Area Ratio</td>
<td>2,250 s.f.</td>
<td>~1,400 s.f.</td>
<td>Conforms</td>
</tr>
<tr>
<td>Lot Coverage</td>
<td>1,750 s.f.</td>
<td>&lt;1,400 s.f.</td>
<td>Conforms</td>
</tr>
<tr>
<td>Building Height</td>
<td>30 feet</td>
<td>N/A</td>
<td>Existing, not affected by lot line adjustment.</td>
</tr>
</tbody>
</table>

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<td>Parking Spaces</td>
</tr>
<tr>
<td>Covered Parking</td>
</tr>
<tr>
<td>Uncovered Parking</td>
</tr>
</tbody>
</table>
It has been determined that the project is in conformance with the following policies of the 2010 Comprehensive Plan:

<table>
<thead>
<tr>
<th>COMPREHENSIVE PLAN POLICY</th>
<th>CONSISTENCY REVIEW</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Policy L-12:</strong> Preserve the character of residential neighborhoods.</td>
<td>By allowing the proposed lot subdivision, which will bring certain legal covenants and restrictions into place on the existing historic structures, Palo Alto can help to preserve the character of the immediate neighborhood by ensuring that these designated structures not only remain, but are maintained in a proper manner.</td>
</tr>
<tr>
<td><strong>Goal L-7:</strong> Conservation and preservation of Palo Alto’s historic buildings, sites and districts.</td>
<td>The covenants and restrictions, which will help assure that these structures remain for many years to come, will effectively ensure that these historic building will be conserved.</td>
</tr>
<tr>
<td><strong>Policy L-51:</strong> Encourage public and private upkeep and preservation of resources that have historic merit, including residences listed in the Historic Inventory.</td>
<td>The covenants will require private upkeep of the properties in question, which would not necessarily be the case if the Planned Community was not approved as proposed.</td>
</tr>
<tr>
<td><strong>Policy L-57:</strong> Develop incentives for the retention and rehabilitation of buildings with historic merit in all zones.</td>
<td>By expanding the use of the Planned Community designation to incorporate the retention of historic structures as a public benefit, the City has created a path that allows and even encourages the retention of historic structures on similarly configured lots. The incentive in this case would be the ability for the property owner to sell one or both of the lots, with the stringent historic restrictions in place.</td>
</tr>
<tr>
<td><strong>Goal H-2:</strong> Conservation and maintenance of Palo Alto’s existing housing stock and residential neighborhoods.</td>
<td>The Planned Community designation will conserve these historic structures, which have been determined to be important enough to merit designation by the City’s Historic Resources Board. Historic maintenance will also be required.</td>
</tr>
</tbody>
</table>
Gentlemen,

My name is John McFarlin and I own the property at 448 Addison Avenue, directly across the street from subject property at, I believe, 453 Addison Avenue. I have spoken before with both of you by phone.

I am against the proposed zoning change for subject property. I ask you to inform me how I may officially let my objections be known. When I last talked to Paul, he said that the department was early in the application process for objections to be raised. Russ told be that it was unlikely to be approved because of lot size and purpose.

How are objections to a zoning changes made to your department? Is it an informal process? Do I need a land use lawyer? Please advise. Is there information provided by the City of Palo Alto such as a city residential plan, lot splitting, zoning changes from R2 to other uses and past rulings on similar requests that I could read? Past rulings on similar requests would be very helpful for me in stating my specific objections based on City Planning policy. For example, how does the City rule on applications for L shaped lots. Or, what are the current restrictions and rulings on applications for split lots.

My mailing address is: 5 Silverstone Avenue, Asheville, NC 28805. My telephone number is 828-505-0639.

As you face my home, to the right two lots which were recently sold on which sit a two SFDs, a tri-plex and a four-plex. Rumor is that these two properties are now being considered for some sort of development. Please advise me if application is made to re-zone these lots from R2. As I understand it, even though there are multiple dwellings on the property now, the lots are zoned R2 and a multi-unit structure cannot be put on the property. Is that true?

Thank you. Both of you were very kind to speak to me.

Sincerely,

John C. McFarlin
November 23, 2007

To Whom It May Concern,

I am writing in support of the PC at 449, 451 and 453 Addison Ave., Palo Alto. I live in the neighborhood and see this property on a daily basis. Keeping the Queen Anne exterior on the street front will help maintain the variety of architectural styles in Palo Alto. Much of our town's charm and appeal is found in our unique historical homes. This PC will benefit all residents.

Sincerely,
Mary A. Ojakian
526 Addison Ave.
Palo Alto, CA 94301
Green, Lisa

From: Betten, Zariah
Sent: Monday, November 26, 2007 7:32 AM
To: Williams, Curtis; Caporgno, Julie; French, Amy; Larkin, Donald; Arthur Keller; Daniel Garber; Karen Holman; Lee Lippert; Patrick Burt; Paula Sandas; Samir Tuma
Cc: Green, Lisa
Subject: FW: Proposed PC Zone at Addison Avenue

FYI

Zariah Betten, Admin. Associate
City of Palo Alto, Planning
250 Hamilton Avenue, 5th Floor
Palo Alto, CA 94301
Tel: 650-329-2440
Fax: 650-329-2154
zariah.betten@cityofpaloalto.org

From: Brian Kinard [mailto:bkinard@sbcglobal.net]
Sent: Sunday, November 25, 2007 10:34 AM
To: Betten, Zariah
Subject: Proposed PC Zone at Addison Avenue

To the Palo Alto Planning Commissioners, Staff and members of the HRB

I am in support of the proposal to create a PC zone at 449 – 451 Addison Avenue.

My house is located just two houses down from the proposed PC zone.

959 Waverley Street (corner of Waverley and Addison)

I believe that such change is positive for the community and Palo Alto.

Best regards,

Brian Kinard
President & CEO
GeoFarm, Inc.
(650) 868-6669

11/27/2007
To the Palo Alto Planning Commissioners, Staff, and members of the HRB:

Re 449-451 Addison Avenue 07PLN-00141

This is a letter in support of the plan currently in consideration to create PC zone regulations to allow the subdivision of the above parcel for the benefit of preserving both historic homes.

Respectfully,

Susan Beall

Susan Beall
November 20, 2007

Planning and Transportation Commission
City of Palo Alto
City Hall
250 Hamilton Avenue
Palo Alto, CA  94301

Dear Planning & Transportation Commissioners:

I am writing in support of the request for a Planned Community Zone Change for the property at 449 and 451 Addison Avenue in Palo Alto. I live in this area on Palo Alto in the 400 block of Lincoln Avenue.

The PC would protect two historical old structures in Palo Alto and would not impact the neighboring properties. The structure at the front of the property is an exceptional Victorian cottage, and the property at the rear was converted into a home from the original stable on the property. It would be a wonderful solution.

Thank you!

Sincerely,

Nancy Huber
451 Lincoln Avenue
Palo Alto, CA  94301
November 20, 2007

Planning and Transportation Commission
City of Palo Alto
City Hall
250 Hamilton Avenue
Palo Alto, CA 94301

Dear Planning & Transportation Commissioners:

I am writing in support of the request for a Planned Community Zone Change for the property at 449 and 451 Addison Avenue in Palo Alto. I live in this area on Palo Alto in the 400 block of Lincoln Avenue.

The PC would protect two historical old structures in Palo Alto and would not impact the neighboring properties. The structure at the front of the property is an exceptional Victorian cottage, and the property at the rear was converted into a home from the original stable on the property. It would be a wonderful solution.

Thank you!

Sincerely,

Nancy Huber
451 Lincoln Avenue
Palo Alto, CA 94301
February 4, 2008

Dear Members of the Palo City Council:

On February 19, my request for a rezoning of my property at 449-451 Addison Avenue will be presented to the Council. I will be asking that my property, currently zoned R2, to be changed to Planned Community (PC).

The property consists of two homes. The front house on Addison Avenue is a Queen Anne built in 1899. The original stable at the rear of the property, also built in 1899 and later converted to a residence, is my home. Both are listed on Palo Alto’s Historic Inventory.

The purpose of the PC is to provide for permanent preservation of the historic structures and to retain the smaller, more affordable homes through preservation covenants and a lot split. Neither goal is otherwise achievable.

I have owned the property since 1978 with a partner who wants to sell, and I cannot afford to buy out his half. It has been clear to me from demolitions I have seen in my neighborhood that the houses would be razed if the property were sold with its current zoning. Therefore, in order to protect a unique and historic property and continue to live in my house, it was suggested by Steve Emslie that I proceed with a proposal for a PC. The PC would allow my partner to sell the Queen Anne under a protective covenant.

Most PC’s come to Council asking for significant development bonuses.

My proposal asks only for a rezoning to allow
- division of the property into two lots
- rebuilding the garage in the same location as the current garage
  (in order to preserve open space and existing mature garden)

Public benefits are
- preservation of the historic structures through covenants
- retention of the smaller, more affordable homes (due to lot split and covenants)

Both the Historic Resources Board and Planning & Transportation Commission unanimously approved my proposal. I look forward to meeting with you on February 19 and hope to receive your support.

Sincerely,

Margo Schmidt

Margo Schmidt
Comprehensive Plan and project compliance

Overarching goals:

Building community and neighborhoods
Palo Alto's diverse neighborhoods are the building blocks of the community. ... The City is committed to building on the strengths of its neighborhoods, keeping them safe and attractive, maintaining a distinct identity for each...

Maintaining and Enhancing Community Character
The community treasures the special qualities of the City, including its historic buildings, pedestrian scale.... Maintaining the physical qualities of the City is an overarching consideration, incorporated in all parts of the Plan.

Land use

Policy L-12: Preserve the character of residential neighborhoods...

Program L-12: Where compatible with neighborhood character, use Zoning and the HIE process to create incentives or eliminate obstacles to remodel houses with features that add street life and vitality.

Goal L-7: Conservation and preservation of Palo Alto's historic buildings, sites, and districts.

Policy L-51: Encourage public and private upkeep and preservation of resources that have historic merit, including residences listed in the Historic Inventory.

Program L-58: For proposed exterior alterations or additions to designated Historic Landmarks, require design review findings that the proposed changes are in compliance with the Secretary of the Interior's Standards.

Policy L-57: Develop incentives for the retention and rehabilitation of buildings with historic merit in all zones.

Policy L-58: Promote adaptive reuse of old buildings

Program L-65: Seek additional ways to apply current codes and ordinances to older buildings. Use the State Historical Building Code for designated historic buildings.
Housing

Goal H-1: ...The Comprehensive Plan's policies and programs promote a variety of housing opportunities for all income ranges. Housing diversity will enhance Palo Alto's social and economic strength....

Policy H-2: Consider a variety of strategies to increase housing density and diversity in appropriate locations.

Program H-3: ...A variety of housing types is desired in Palo Alto to address the broad spectrum of needs....

Program H-6: Amend zoning regulations to permit residential lots of less than 6000 square feet where smaller lots would be compatible with the surrounding neighborhood. Many Palo Alto neighborhoods have lots smaller than 6000 sq ft minimum currently required by zoning. Allowing additional smaller lots would result in more units and create greater housing opportunities.

Goal H-2: Conservation and maintenance of Palo Alto's existing housing stock and residential neighborhoods.

Palo Alto has many fine neighborhoods with a variety of housing styles and types. Conserving and maintaining this housing will help preserve the character of the City's neighborhoods.

Program H-14: Enact development regulations that encourage rehabilitation of historic residential buildings, remodeling of older multifamily rental buildings and retention of smaller single family residences.
**Neighborhood lot pattern**

Proposal would create two lots from the existing 10,000 sq ft lot in an R-2 zoning district. The following list demonstrates the proposal's consistency with the historic lot pattern of the area and includes both the older neighborhood pattern as well as newly created lots.

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Non-conforming lots 2500 sq ft or less

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TO: PLANNING & TRANSPORTATION COMMISSION
FROM: Paul Mennega, Planner
DEPARTMENT: Planning and Community Environment
AGENDA DATE: November 28, 2007
SUBJECT: 449-451 Addison Avenue [07PLN-00141]*: Request for Planning and Transportation Commission review of a Planned Community Zone Change for a 9,995 square foot R-2 District parcel currently developed with two residences on the City’s Historic Inventory, to create Planned Community zone regulations allowing the subdivision of the parcel to into two separate parcels, for the benefit of preserving both historic residences by legal covenant and restriction. Environmental Assessment: Exempt from the California Environmental Quality Act (CEQA).

RECOMMENDATION:
Staff requests that the Planning and Transportation Commission (Commission) review the draft ordinance and recommend that the Council adopt the Planned Community ordinance (Attachment A, to be available at Commissioners’ places on 11/28/07).

SUMMARY OF KEY ISSUES:
The Planned Community (PC) application involves the subdivision of an existing R-2 zoned lot for the benefit of preserving both existing historically designated residences. The preservation will be achieved by placing legal restrictions and covenants on each property.

The project location, at 449 Addison Ave, is shown in Attachment D. The project includes the following components:
  • A draft agreement for historic preservation of both residences (Attachment B, at places);
  • A site plan indicating where a property line is desired, and
  • A draft development schedule (Attachment C) for the future steps in the finalization of the Planned Community designation.

Current R-2 zoning regulations prohibit the subdivision of an R-2 lot unless the development standards for the zone can be met. These standards include a minimum lot size of 6,000 square
feet, lot depth of at least 100 feet, and minimum street frontage of at least 60 feet (see Attachment H). The subject property, 449 Addison, does not meet the minimum size or street frontage requirements to subdivide the lot into two separate R-2 zoned parcels.

The PC zone will create zoning standards that will allow the subdivision (with shared driveway) of the site, which will divide the responsibilities and costs for maintaining and rehabilitating the two houses between the current owner at 449 Addison and a new owner at 451 Addison. The required covenants will ensure that all future work by both owners on the two new parcels will conform to federal historic standards (the Secretary of the Interior's Standards for Rehabilitation) that the City Council adopted for use in Palo Alto in 1987.

The applicant will be presenting the concept to the Historic Resources Board at a study session on November 28, 2007. A summary of the session will be provided orally to the Commission.

Should the City Council approve the PC, an application for a parcel map would be submitted. The parcel map conditions would require the garage to be renovated to meet separation requirements at the property line prior to recordation of a final map. After the parcel map review, the historic preservation covenants would be recorded, and the applicant would submit garage renovation plans in accordance with historic preservation standards for review by the Historic Resources Board. The garage renovation would need to be completed before a final map could be recorded. The PC proposed development schedule, contained within Attachment C, sets forth a schedule for recordation of a final map within a set time frame.

**Planned Community Zone Findings**

Section 18.68.060 Required Determinations notes the following required findings for a PC zone:

a) The site is so situated, and the use or uses proposed for the site are of such characteristics that the application or general districts or combining districts will not provide sufficient flexibility to allow the proposed development;

b) Development of the site under the provisions of the PC planned community district will result in public benefits not otherwise attainable by application of the regulations of general districts or combining districts. In making the findings required by this section, the planning commission and city council, as appropriate, shall specifically cite the public benefits expected to result from use of the planned community district; and

c) The use or uses permitted, and the site development regulations applicable within the Comprehensive Plan, and shall be compatible with existing and potential uses on adjoining sites or within the general vicinity.

If the Commission acts favorably, the recommendation would be transmitted to the City Council directly, as the Architectural Review Board would not be involved in this case. Flexibility is given to the Commission on considering a rezoning request is set forth in Palo Alto Municipal Code (PAMC) 18.98.070 (a), which states, “On the basis of evidence and testimony presented to the Commission at the public hearing, the commission may determine that the public interest will be served either by revising the area being considered for reclassification to include properties not originally part of the application, or by giving consideration to district classifications not originally requested by the application. The commission may, solely at its option, consider additional properties or district classifications, or both.”
Public Benefit:
The subdivision into two separate legal parcels will allow for the application of historic covenants and restrictions on the resulting parcels, furthering the historic preservation of these two designated buildings by re-enforcing the City’s Historic Preservation Ordinance.

POLICY IMPLICATIONS
Zoning and Comprehensive Plan compliance tables are attached to this report as Attachments G and H, respectively. This will be the first application for a Planned Community to allow the eventual creation of small lots with a public benefit of historic preservation.

ENVIRONMENTAL REVIEW
An initial study was completed; no environmental impacts are anticipated as a result of this project, and it is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15305, Minor Alterations in Land Use Limitations, since the rezoning would not result in any changes in land use or density, given the two existing single-family residential structures would remain on the property as is. The Parcel Map to create the smaller parcels would also be exempt from CEQA.

ATTACHMENTS:
A. Draft Planned Community Ordinance (to be at Commissioners’ places on 11/28/07)
B. Draft Agreement for Historic Preservation (also to be “at places” on 11/28/07)
C. Applicant’s submittal (includes Development Program Statement, Proposed Development Schedule, and Letter dated May 7, 2007)
D. Project Aerial & Zone Map
E. Applicant’s Letter dated September 26, 2007
F. Zoning Compliance Table, 449 Addison Avenue
G. Zoning Compliance Table, 451-453 Addison Avenue
H. Comprehensive Plan Compliance Table
I. Historic Resources Board Staff Report dated June 1, 2005
J. CMR for Historic Designations on the Property dated April 10, 2006
K. Site Plan (Commissioners only)

COURTESY COPIES:

PREPARED BY: Paul Mennega, Planner

REVIEWED BY: Amy French, Manager of Current Planning

DEPARTMENT/DIVISION HEAD APPROVAL: ________________________________
Curtis Williams, Assistant Director
Planning & Community Environment
PLANNING & TRANSPORTATION COMMISSION MINUTES

Wednesday, November 28, 2007
Regular Meeting at 7:00 PM
Council Chambers
Civic Center, 1st Floor
250 Hamilton Avenue
Palo Alto, California 94301

ROLL CALL: 7:07 pm

Commissioners:
Karen Holman - Chair
Daniel Garber - V-Chair
Patrick Burt - arrived 9:30
Paula Sandas
Arthur Keller
Lee Lippert
Samir Tuma

Staff:
Curtis Williams, Assistant Director
Julie Caporgno, Chief Plan. & Transp. Official
Donald Larkin, Assistant City Attorney
Amy French, Planning Manager
Paul Mennega, Planner
Lata Vasudevan, Planner
Roland Rivera, Senior Planner
Lisa Green, Admin. Associate

AGENDIZED ITEMS:
1. 449-451 Addison Avenue
2. 4249 and 4251 El Camino Real

REPORTS FROM OFFICIALS/COMMITTEES: Review and discuss draft letter to ABAG regarding appeal of Regional Housing Needs Allocation (RHNA).

APPROVAL OF MINUTES: Regular Meeting of September 26, 2007.

Chair Holman: Good evening. I would like to welcome you to the Regular Meeting of the Planning and Transportation Commission for Wednesday, November 28, 2007. Would the Secretary call the roll, please? Thank you.

Let the record show the Commissioner Burt will be joining us for item number three this evening.

This is the time on the agenda when anyone who would like to speak to an item that is not on the agenda could speak. I have no cards for Oral Communications.

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

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

Chair Holman: We will go on then to item number one, New Business. Item number one is 449-
451 Addison. I will not be participating in that item due to a longstanding friendship with the
property owner and a potential financial interest. So I will pass the Chair onto Chair Garber. I
think Commissioner Tuma will be Vice-Chair for this item.

Vice-Chair Garber: Thank you Chair Holman. Item number one. We have before us the item
449-451 Addison Avenue. A request for Planning and Transportation Commission review of a
Planned Community Zone Change for a 9,995 square foot R-2 District parcel currently
developed with two residences on the City’s Historic Inventory, to create Planned Community
zone regulations allowing the subdivision of the parcel to into two separate parcels, for the
benefit of preserving both historic residences by legal covenant and restriction. Does the Staff
have a presentation?

NEW BUSINESS
Public Hearings:

1. 449-451 Addison Avenue [07PLN-00141]*: Request for Planning and Transportation
Commission review of a Planned Community Zone Change for a 9,995 square foot R-2
District parcel currently developed with two residences on the City’s Historic Inventory,
to create Planned Community zone regulations allowing the subdivision of the parcel to
into two separate parcels, one of which would be landlocked, for the benefit of
preserving both historic residences by legal covenant and restriction. Environmental
Assessment: Exempt from the California Environmental Quality Act (CEQA)

Mr. Curtis Williams, Assistant Director: Yes, Planner, Paul Mennega will make the presentation
tonight.

Mr. Paul Mennega, Planner: Good evening. To start I would like to apologize for the late flurry
of emails and many at places documents you have before you tonight. Your patience is greatly
appreciated in reviewing those and with this project where you have had a few things come
together at the very last minute. So again, thank you.

This Planned Community or PC application involves the subdivision of an existing R-2 site into
separate legal lots, something that the R-2 zoning does not explicitly allow. The subdivision can
be seen on the map labeled Preliminary Parcel Map, which you should have in your package.

Currently, a Category II single story home occupies what would become the front lot of this two-
lot subdivision with a Category IV two-story home occupying the rear lot. The retention of these
structures in perpetuity and in compliance with the Secretary of the Interior Standards constitutes
the public benefit of this PC project and is detailed in the draft PC ordinance, which you have at
places.

The existing garage structure also shown on the map you have in front of you has not been
deemed historic and will be replaced under a future application. No physical changes to either
structure or lot are being proposed with this application other than the subdivision.

Earlier today the Historic Resources Board held a study session on the merits of the Planned
Community designation as it relates to the historic preservation of the structures. While the
review was non-binding the feedback from the five members of the Board could be characterized
as uniformly positive. In particular, the Board was pleased to see the creative use of the PC
process to help preserve neighborhood-defining structures such as the Category II Queen Anne
style home located in the front of the property at 451 Addison. Board Member Bunnenberg is
here tonight should you have any questions relating to this morning’s hearing. I believe she has
a card there so she is planning on speaking.

One issue that was raised this morning by Board Member Bower related to the unlikely potential
of the rear historic structure being damaged by natural causes such as a fire. This rear structure
would be located on the rear lot, which would essentially be a flag lot should the PC be approved
and currently as it is a two-story structure this is not permitted by zoning regulations. The
concern was that if the structure were to burn down for instance would we allow it to be
reconstituted as a two-story home on this rear lot. The short answer is yes the Municipal Code
does allow for legal nonconforming/legal noncompliant structures to be rebuilt regardless of the
current regulations. A complicating factor here relates to the covenants requiring historic
preservation, compliance with the guidelines, and how the two interact and how the PC interacts
with this as well. So this issue was just brought up this morning and it is something we will be
reviewing moving forward before we get to Council obviously.

In terms of environmental review an initial study was completed on this project and found that
this project actually is exempt from the requirements of CEQA.

City Staff requests that the Planning and Transportation Commission recommend approval of
this Planned Community Zone Change Ordinance subject to the covenants and conditions as
proposed. Thank you.

Mr. Williams: If I could just add one item. I am not sure if it was perhaps confusing. The
request for the PC is not for a subdivision. The request if for establishing zoning regulations in
particular the lot sizes here that will allow for subdivision when it is submitted. So you are not
approving a subdivision at this point. There will be a Parcel Map that will actually be a Staff
level Parcel map so you wouldn’t see that. The map that is included in your packet was just
there for information to see how the lot would layout in a preliminary fashion and then
subsequently they will come through with that Parcel Map.

What is before you is essentially establishing the zoning allowing the use of one house on each
lot and a smaller lot dimension than are currently allowed by the existing zoning to then permit
the subdivision in the future to come through. Don will add to that.
Mr. Donald Larkin, Assistant City Attorney: I was only going to add that the ordinance that has been provided is a rough draft and was provided to give the Commission a sense of what the final ordinance would look like. To the extent that the Commission has comments on the specific language that is included those can be provided outside of this hearing because it is really the comments on the policies that we want to hear. The ordinance will be revised and errors will be corrected prior to going to Council.

Vice-Chair Garber: Thank you. Let me ask the Commissioners if they have clarifying questions before we go to the public. Commissioner Sandas.

Commissioner Sandas: Thank you. This question is for the Staff. I am a little bit confused about the need to create a PC. I see that the need for the PC is in order to create the subdivision that it changes the zoning to create the subdivision. How does it protect the houses to maintain the historic status? The houses have already been categorized as historic houses so how does the PC make it even more so?

Mr. Mennega: You are correct the current homes have been designated. The first one is Category II, which is of much higher importance and much more restrictive than the Category IV, which is more of just a note than anything else. The PC requires the adoption of restrictions and covenants on the properties themselves that will in perpetuity require the maintenance of the structures in their historical, as they currently are, and they are actually going to be remodeled to bring them even further into compliance with the Secretary of the Interior Standards regarding historic properties. So essentially it strengthens the City’s own historic ordinance which it doesn’t effectively restrict people from modifying historic properties given a long enough timeframe and everything else. So it is really a permanent restriction on these properties.

Commissioner Sandas: Can I ask one more question just to drill down a little bit? So basically what you are saying then is that the PC zone helps the status that these houses already have stick. Is that true?

Mr. Mennega: Correct.

Commissioner Sandas: Okay. Let me ask you this, the covenants and restrictions that come with a PC can be changed if someone decides to change the zoning there or reapply for another PC of a different kind, is that correct? I am just thinking about Alma Plaza for example. It was a PC and it was purchased and then someone else wanted to rezone it as another PC.

I have seen that the applicant has gone to a lot of trouble over a long time to get these structures to have the historic designations that they have. I was just wondering if in fact a PC to create a subdivision really affects the historic nature of the houses at all.

Mr. Larkin: Well, a PC can be amended but the covenants would be binding and run with the land. So the requirement to maintain the historic status of the structures would continue.
Mr. Williams: Anything is ultimately changeable by the Council and every PC we have has public benefits but they could be changed in the future. So this isn’t different as far as that goes. What we do have is a condition of the PC, and especially the Category IV home is really not protected by just being designated Category IV.

So what this is going to do is give it full protection in terms of maintaining it that way and any kind of alterations to it have to go through HRB to determine that it is consistent with the Secretary of the Interior Standards and those kinds of stipulations. So that is a condition of the PC that those covenants be entered into and you have drafts of those covenants that specify that for each property.

Commissioner Sandas: Thanks.

Vice-Chair Garber: Forgive me I am going to interrupt. I failed to invite the applicant to make a presentation. Does the applicant have a presentation to make? You will have 15 minutes.

Mr. Jim Baer, Premier Properties Management: I am here on behalf of Margo Schmidt. I want to thank the Commission for the opportunity to present this application, which is a good one. I want to thank Staff for creating an appropriate fit of a simple PC ordinance for what is a simple set of benefits and requests for relief from zoning by the applicant.

The barter in the PC is this simple, which is that there are two homes and a dilapidated garage and there will be two homes and a dilapidated garage after the adoption of the PC zone. What it allows is to create a flag lot on a parcel that is smaller in size than would normally be allowed. That is the one request by the applicant. There is no other relief from zoning other than allow this flag lot.

The benefit is that these historic covenants that really were created over the last four or five years by the City dramatically elevate the responsibilities of the owner of a property in perpetuity. They are recorded as covenants running with the land for the protection and preservation. As Curtis Williams pointed out a Category IV could be demolished simply by notification. In some circumstances a Category II can be demolished. What this does is eliminate that opportunity. Even further the City can enforce maintenance if the building is run down with this covenant that is both subject to Code Enforcement and the City stepping in and doing the maintenance and subsequently enforcing the applicant reimburse for that. So it is a high level of improvement for these small homes. So the request is simple. What is being offered is simple but of a greater protection than the current historic preservation provides.

The concern about it with the College Avenue building that came through in an R-2 subdivision and that changed the way that the City looked at the policy for that has a very different characteristic. This property has been owned by the applicant for 29 years. This isn’t an opportunistic circumstance. What happened on College Avenue was in that district if we preserve the home you will allow us to build a second home. After the second home was built the request was to create a subdivision, which was not the intent for allowing the second home for the preserving of the primary home. So this differs from that significantly.
I am glad to answer any questions. I apologize to Staff and the Commission that so many of the questions that were asked were because of errors in my development statement. I can’t tell you what was going on. It was not an impromptu or rushed program development statement. We have been working with the applicant for nearly a year. The solution of the PC zone was collaborative with the Staff. I am wrong on policy and I am wrong on attitude but it isn’t very often that what I submit as documents has as many errors as this had. So I am glad to answer questions that clarify and trust that you won’t penalize the applicant for my having made errors in the submittal.

Vice-Chair Garber: Commissioner Tuma.

Commissioner Tuma: Why is the applicant doing this? Do you know? They are burdening the property more than it otherwise is. I can make some guesses based on some language here but can you enlighten us as to why?

Mr. Baer: It is a good fair question. The owner of the property spoke to this at the HRB beautifully this morning. Through family circumstances the property that was once owned by a couple is now owned by two and that is not a recent event. So for the opportunity for Margo who has lived in the property since 1978 and to be able to afford to remain either the rights of the two parties together creates an outcome that is the sale of the property or a financial burden for Margo or the opportunity to separate the properties allows Margo to remain in 449 and allows the other owner to transfer title to that property. So it is a please let me stay in my home in a financial circumstance that would not otherwise allow that and is there a way that we can provide a solution that doesn’t create a terrible precedent? That is a good question and I hope that answer is satisfactory.

Vice-Chair Garber: Are there other questions for the applicant? Commissioner Sandas.

Commissioner Sandas: Actually I am going to steal the floor and make a comment. I was going to ask a very similar question because we see the historic preservation benefits for the City and I was just concerned myself about the benefits derived by the applicant. Certainly an applicant wouldn’t want to do this for purely altruistic reasons. I am glad that you made that point.

My other question is how easy or difficult do you think it is to sell a property that has so many historic covenants and restrictions on it?

Mr. Baer: For a Category II I don’t think it diminishes the value at all. The value of having a substandard size parcel with a driveway easement to a rear property has some impact on the property different than would be a 5,000 square foot parcel that didn’t have a home behind it. You don’t by an 1899 Queen Anne Victorian without affection for that style of home. Similarly the question about why would the applicant choose such a burden the answer is the life choice to live in this kind of home and the affection that goes with that type of home. It is not a burden it is a privilege to preserve the home that she has lived in.

Vice-Chair Garber: Commissioner Lippert.
Commissioner Lippert: Can you clarify for me? In your letter of May 7, the second paragraph describes by saying 449-451 Addison is a parcel of 10,000 square feet rezoned R-2. R-2 does not allow a parcel less than 11,999 square feet. Isn’t that supposed to be greater?

Mr. Baer: It doesn’t allow a flag lot created on a parcel that is less than 11,000 square feet. Is that correct, Staff?

Commissioner Lippert: That is why I need this clarified, please.

Mr. Williams: I think that is the intent but we will look up the number.

Commissioner Lippert: Okay, because when I look at the table for R-2 it says it doesn’t allow for lots greater than 11,999 not lots less than 11,999.

Mr. Baer: Staff will have a better answer than I can provide.

Commissioner Lippert: Okay. The second question I have is would it be possible for the property owner to make a similar presentation to what they did this morning?

Mr. Baer: She has submitted a card to speak to you.

Vice-Chair Garber: I think she could speak now if she likes. Do the Commissioners mind?

Ms. Margo Schmidt, Palo Alto: Good evening Commissioners. If I may just tell Jim Baer publicly what a great help he has been. He came up here and apologized to you but he has been such a help to me.

At the risk of beating a dead horse I am going over the reason I went for a PC again, if I may.

Vice-Chair Garber: Forgive me. Please identify yourself for the record.

Ms. Schmidt: Margo Schmidt.

Vice-Chair Garber: Thank you.

Ms. Schmidt: I had some goals in mind and the lot split would satisfy them. I went to the Planning Department and got to meet with Steve Emslie. He suggested the PC. As time went on the Staff recommended it, the Staff supported it, and so we continued.

My goals were to be able to remain in my house, which is at the rear of the property, and to divest myself from the partnership that I have. My partner is going to retire any day and I felt like the sword of Damocles was going to cutoff the string, and he was going to say that’s it I want to sell the property. I investigated and found out there is nothing I can do to stop it. So he would have sold the property. I would have had to move and in addition to that just as important to me as remaining in this house that I have had for all these years is that the houses remain. From what I have seen on my street and in my neighborhood and in all of Palo Alto the houses
have been demolished. I have no question about it and they would have been developed. So I went ahead.

This property is very special to me and I think to Palo Alto because the history of it is that Mr. Thiele who had a tailor shop in Palo Alto at the turn of the century lived in this house and behind it was the stable. It remains, the setup is there and I think that that’s very wonderful and very special. I don’t want it to go away. So I am requesting that there be these two lots. The two lots will be similar in size to many other lots on my street and in my neighborhood. There will be these covenants on them. I know you have heard this and you know it but the front house could be changed even though it is a Category IV and the Category II would be demolished – I mean the opposite. So I am just hoping that you will support my request and save the houses. Thank you.

Do you have any questions for me?

Vice-Chair Garber: Thank you. Commissioners? Let me go back to Commissioner Keller, you had some questions of the previous speaker.

Commissioner Keller: Yes, I have a question for Mr. Baer, please. So I think you know a lot more about these housing rules and laws and such than I do. So if you could enlighten me as to how the proposal here is more effective than what happened for two particular cases that I am aware of, one is the Juana Briones house which what is going on there breaks some peoples’ hearts, and the other is a wonderful house in San Jose that somebody was trying to sell and suddenly it had a fire and the value of the land went up by $1.0 million because it no longer had an historic home that was encumbering it. So if you could basically enlighten us as to how this is more effective in protecting these two houses than those other two situations.

Mr. Baer: Juana Briones is a good example. If that had had a preservation covenant and a covenant is as toothsome as you can have because it provides both record notice of the perpetual requirement to maintain and preserve without opportunity for demolition. So that is a covenant running with the land in perpetuity but it also has an enforcement mechanism for the City. If the roof is leaking the City could enforce as a remedy compel fixing any deterioration that would cause the home to slip into a condition which was the argument made for Juana Briones that it got to a point that it was no longer salvageable because of the deterioration. This covenant doesn’t allow that. The enforcer of the maintenance obligation is the City through its Code Enforcement. It doesn’t require third-party complaint it is a City Code Enforcement matter.

Category IV’s are interesting because in some ways they have lesser protection than a property that is over 50 years old that hasn’t yet been designated as a Category. If a structure is over 50 years old you are required to do an historic evaluation whether by Staff or an applicant that determines whether it is eligible or ineligible for registration as a significant resource by the State of California as an historic resource. Once it has been designated as a Category IV it no longer has to do the eligibility for registration assessment and it is not protected from demolition so long as the timing and notice provisions that are set forth in the Historic Resource provisions of Chapter 16. I hope that answers it and Staff can certainly answer with greater breadth than I can.
Commissioner Keller: If you could just answer one little thing that is a follow up to that? How would the City be aware that the house would … I am assuming that the applicant at least particularly with the rear house is well intentioned and I am hoping that whoever buys the front house would be well intentioned although we don’t know. Some years from now somebody will hopefully, with these houses being there for a period of time, somebody else will own the rear home. So how will the City know that these houses are in need of maintenance and repair?

Mr. Baer: That is a good question. Let’s start with the rear one. If it has the ability to be demolished right now putting a covenant on it starts by avoiding any opportunity for demolition and it requires any renovation of the home to be consistent with the Secretary of the Interior Standards for historic rehabilitation. So on the rear one we know we have gotten a substantial greater degree of control and protection than exists without the covenant. How does the City become aware of or enforce a flag lot home? We did this in one PC zone where the Council and Commission and PC ordinance flag something that says and the City will make an annual inspection. Am I saying something that is crazy or am I saying something that is consistent with Staff policy?

Ms. Amy French, Planning Manager: One thought would be have this ability to have flags on our electronic systems. So for instance if someone were to walk in off the street and say I am going to demo this house it would not be issued because someone would check the system and notice that there was a flag on there saying absolutely no way. As far as what we can do with the PC ordinance I would let our attorney answer that as far as language or what have you.

Mr. Larkin: That would certainly be permissible although having annual inspections would be something different that we don’t do for any other historic properties. We have lots of other situations in which for example in the TDR Program where an applicant would agree to an historic covenant in exchange for development rights. In that case we wouldn’t do an annual inspection but we would expect that the property would be maintained according to Secretary of the Interior Standards. We would have the right to inspect as necessary to enforce those covenants.

Commissioner Keller: I am wondering whether it would make sense rather than think about having an annual inspection, which I think would be burdensome for the City, instead for the City to have the right to make inspections upon reasonable notice.

Vice-Chair Garber: Commissioner, let me suggest that we continue the clarifying questions and we can get to suggestions a little later in the evening.

Commissioner Keller: Thank you.

Vice-Chair Garber: Does Staff have an answer to Commissioner Lippert’s question?

Mr. Mennega: You have mentioned the 11,999 square foot number. Looking at the code here under Title 21 for flag lots it mentions the minimum size being 20 percent larger than the standard lot size for the zone. So in the R-2 zone that would actually be 7,200 square feet would
be the minimum flag lot size and you are correct, 11,999 square feet is the maximum lot size in
the R-2 zone.

Vice-Chair Garber: Commissioner Lippert, did you have other questions of Staff?

Commissioner Lippert: Actually I have one other question for the applicant. On the survey here
it states proposing breaking it up into two 5,000 square foot lots yet the property width is only
49.98 so you are proposing only breaking it up into lots of 4,998 square feet. Is that correct?

Mr. Baer: I think the Staff Report corrected that to say the parcel is 9,995 square feet not 10,000
square feet. So they are being divided such that whatever the width is it is halfway of the depth
of the parcel.

Commissioner Lippert: Okay, so that brings me to a question for Staff. Is that 49.98 a hard
49.98 or is it a soft meaning that for all practical purposes we are looking at it and reviewing it as
though it is 50?

Mr. Larkin: The actually Parcel Map itself has not been submitted yet so it is not a hard 4,998.
The way we have drafted the ordinance the Parcel Map would have to be consistent with the site
plan that has been submitted and the site plan shows where the line is drawn. If the survey
comes back and one is 4,997 and the other one is 4,999 that is still going to be in compliance
with the ordinance.

Commissioner Lippert: If I could follow up on that, please?

Vice-Chair Garber: Please.

Commissioner Lippert: The reason I am asking that question is that in the Staff Report
specifically it had suggested that we might look at other zoning categories. If I read the Zoning
Ordinance correctly and I read through the requirements of RMD this site in its entirety would
comply square footage wise with an RMD zone but in width it does not because the minimum
width for RMD would be 50 feet wide and this is 49.98 but square footage wise when I take the
whole thing it is really 4,996 square feet plus or minus.

Mr. Williams: That is why we don’t want to get into those few square feet and differentiating
there which is why the PC is a better way to go than trying to call it RMD. It doesn’t quite make
that and that is why we didn’t specify like a 5,000 square foot per lot in the PC ordinance. We
referred to the site plan diagram that is included as the document. So the lots will be a little less
than the 5,000 square feet. Having it be RMD wouldn’t make it either so the PC works from all
perspectives as far as establishing lot sizes that work for this project that are generally
substandard for either R-2 or RMD properties or zoning but it would allow it in this case for the
tradeoff of the historic preservation covenants.

Commissioner Lippert: Okay. I have more questions but you can come back to me.

Vice-Chair Garber: Thank you. Commissioner Tuma.
Commissioner Tuma: Attachments F, G, and H are those the applicant’s or are those prepared by Staff?

Mr. Mennen: Staff.

Mr. Williams: We have labeled specifically which ones are the applicant’s.

Commissioner Tuma: I couldn’t figure it out. I was assuming that it was Staff but is there any reason to not label those in the future as Staff?

Mr. Williams: I guess our sense was that if we labeled them as applicants, and we tried to put that I think also in the List of Attachments whether it is the applicant’s or not. We can go through and do that it is just a little more work for Staff.

Commissioner Tuma: Maybe it is just the formatting.

Mr. Williams: We need to get a stamp then we can just stamp these things either ‘Staff’ or ‘Applicant,’ and that would make it easier I think.

Commissioner Tuma: To me it is different reading something that I know is prepared by you guys.

Vice-Chair Garber: Commissioner Keller, did you have questions? Commissioner Lippert.

Commissioner Lippert: Following up my previous line of questioning. If I go through the zoning map for the City this property is located in the SOFA Coordinated Area Plan zone. Does that and a $1.80 get me anything?

Mr. Williams: I don’t think it matters. It is a PC so it sort of stands on its own. I think we feel it is consistent with preservation of historic structures, which is one of the objectives of the SOFA Plan as well and it is not designated by SOFA for being something else. So we think it is consistent with SOFA in any event.

Commissioner Lippert: Let me build on that. The SOFA Coordinated Area Plan actually identifies historic sites within the SOFA area and it assigns them actually a separate classification or separate zoning that might be applicable. In the Staff Report again you asked us to look at all other zones that might be applicable here.

Ms. French: Can I jump in? We don’t think it is in the SOFA area.

Vice-Chair Garber: Commissioner Lippert is sharing his map with Staff at the present time.

Ms. French: That was a transmittal from the applicant. It is possible that it is within the SOFA area but it is zoned R-2. It is not one of the zones created as a part of SOFA, the DHS.
Commissioner Lippert: Okay. All I am doing is following up in what the Staff Report recommends which is that we may consider other zones and because it is within the SOFA area could we not consider other zones within the SOFA area for that piece of property?

Mr. Williams: I understand. I don’t think we looked specifically at the SOFA zones but I still believe that our preference here is a PC zone because it allows us to get the tradeoff of the historic preservation of these structures which just being in any other zone is not going to provide. We again believe it is consistent with the intent of SOFA preservation as well. There may be other ways to deal with it but as far as getting this kind of tradeoff the PC is really the mechanism that allows that.

Vice-Chair Garber: Let’s invite the public to address the Commission. We have four cards here. The first is Beth Bunnenberg followed by Jim Baer and then Steve Pierce. Yes, I am assuming Jim you are going to pass on that, thank you. So after Beth is Steve Pierce. Good evening.

Ms. Beth Bunnenberg, Historic Resources Board Representative: Good evening. I am here tonight representing the Historic Resources Board. I want to reinforce the fact that the members gave individual opinions because it was a study session but each member was enthusiastic in their support of this rezoning. It was referred to as a creative and ingenious idea. The benefit of historic preservation covenants is a growing trend in ways of saving historic buildings and it is much stronger than most anything else we have because it goes with the property.

It is important to understand that basically now Palo Alto has an ordinance, which requires certain properties to be reviewed by the HRB but in many, many, actually in most instances its compliance is voluntary. So that houses that many people feel are protected by designation by number maybe demolition could be delayed but they could still be demolished. So to have a provision, a public benefit, of preserving these houses is a very important thing.

It is a wonderful story. It is like a history lesson, Baron Thiele came and he was apparently a very good tailor. He built a nice house and he continued to make money and he helped out Stanford students with new suits and money occasionally to see that they made it through the semester. So this was a Palo Alto success story and it is a great history lesson to save.

Also, I think that in looking at this the HRB was very taken with the ideas and the protections that would be possible. As Chair Bernstein said, if this idea is precedent setting and others choose to follow it, so be it. It would be a delightful to see. Any questions?

Vice-Chair Garber: Thank you. Any questions from the Commission? Thanks. Steve Pierce.

Steve may be followed by Margo if she wishes to speak again.

Mr. Steve Pierce, Palo Alto: Good evening, Commissioners. I am here this evening to speak out in favor of the proposal. I think the benefits are really clear to us as a community. I think the preservation of these structures is really an admirable thing and really actually an opportunity for us as a community. I think the proposal also not only meets the test of our Comprehensive Plan but is actually supported by many elements in that plan. I think the use of the PC here I think is appropriate in the sense that the PCs are really designed to deal with unique situations, with
unique opportunities for our community, and this is one of those situations. Unique also in that
the applicant is not asking for additional development rights. What we get is what is there.
Really, this is a mechanism by which to get or at least to allow us to subdivide it. So it is really
what I would call a situation where we are getting public benefits with really not the usual
impacts where we are sort of weighing what are the impacts versus public benefits. So I think
we should really consider this to be a win-win and I would hope that the Commission would see
fit to support this. Thank you.

Vice-Chair Garber: Thank you. Margo Schmidt, do you wish to speak again? Okay, thank you.

With that we should go to discussion. I will close the public meeting unless there are any other
cards to be had. No, okay. Commissioner Lippert.

Commissioner Lippert: I would like to take a moment just to read from I guess it is a CMR it
looks like. It is hard to tell. It is Goals and Objectives by the City Council adopted September
22, 1997 in which it talks about the SOFA II Coordinated Area Plan. As part of the SOFA II
Coordinated Area Plan it identifies historic preservation. Identify historically significant and
contributing structures in the South of Forest Area and encourage the preservation and viable
continued use of landmark structures. Evaluate preservation and continued use of contributing
structures that compose the heritage of the South of Forest Area. Recognize that in order to
achieve other plan objectives not all historic structures may be able to be preserved and examine
alternatives including preservation, alteration, demolition, and relocation.

Now, as I remember the SOFA II area that was actually the SOFA area was inhabited by the Palo
Alto Medical Foundation as well as a number of other structures that were historically
significant, not that Palo Alto Medical Foundation was. They were actually lifted up and moved
and put on another piece of property and the area was redeveloped. For the ones that were not
able to be relocated they actually created historic zones or districts for those properties. In this
case we are talking about a property that is within the SOFA district and what appears to be
missing from the Staff Report is whether any kind of analysis or whether the SOFA report speaks
at all to this property in any way and whether it has identified what the goals and objectives were
in terms of the SOFA Plan.

Vice-Chair Garber: Does Staff have any immediate reaction to that or comments regarding it?

Ms. French: Well I did go upstairs and get our old SOFA I Plan. It is definitely shown in SOFA
I area. There is a section on historic and it lists certain properties. It doesn’t list this one
certainly. So that is just my initial comment.

Mr. Williams: I want to add that you have in your packet specific designations on these
properties that were made in 2005 and 2006 subsequent to that. I would consider those to have
been made determining that consistency with SOFA. So I think sort of de facto there is an
indication that these properties have some historic significance and that is significant with the
SOFA Plan as well.
We could go through and do further and further analysis on these things. I think we really have a winning project here. We have the HRB enthusiastically supportive of this, the neighbors are supportive of this, and Staff thinks this is a good way to go that is win-win for everyone. So we don’t think there is some better way to do this. The language you read kind of mirrors what I think this project is about in terms of trying to preserve historic structures. So it has several different alternatives for ways to look at some of these structures and I think preservation is listed in there and it is the best of those alternatives. We have that opportunity this time so we think it is consistent with that.

If you would like we could add a finding in here to make that determination but we are comfortable with the PC zone and we think it meets all the intent of what you have recited from SOFA as well as the Comprehensive Plan and the zoning criteria for a PC.

Commissioner Lippert: I don’t mean to blindside anybody or to be disparaging at all to what is trying to be accomplished here. What I am looking at is alternatives because what I see is a subdivision of a lot and turning it into a flag lot in some ways just doesn’t meet with our zoning. What I am looking for is an alternative here that might be able to accommodate what the property owner is trying to accommodate and yet work within the framework of something that we already have which is a Coordinated Area Plan. To just think out loud, in the SOFA Coordinated Area Plan we have a zone IT-35 which is an historic district. It is on Homer and what it identifies is a series of buildings that are entitled to Transferable Development Rights. The reason why I use the Transferable Development Rights is that when we do our deliberations here we are not supposed to think in terms of economic hardship but that is a reality in terms of what the applicant is trying to do here.

With Transferable Development Rights and the Coordinated Area Plan historic zoning being able to apply here those TDRs could be sold off thereby making it easier for the property owner to be able to do the necessary rehabilitation work and keep the properties under one ownership. That is all that I am looking at here. I am just thinking out loud and I am saying there is another way to get there and that is how we might be able to do it.

Mr. Larkin: The City of Palo Alto does not have an historic preservation ordinance. The only way to ensure that the homes are maintained in their historic structure is with the agreement of the property owner. So a TDR plan would be an option but it would have to be with the consent of the owner and it would require a broader zone change. At this point what we have is an application for a PC zone. We don’t have a proposal to broaden the TDR Program to encompass more areas than it already encompasses. So I think what the Commission needs to focus on is this a good tradeoff for the City to get this historic preservation in exchange for an exemption or a deviation from traditional zoning that would be placed on this parcel. I think it is an interesting suggestion but before pursuing that it is important to know whether or not that is something that the owner would be willing to do because we can’t impose that on anybody.

Commissioner Lippert: That is true.

Vice-Chair Garber: Follow up and then let’s get to the other Commissioners’ questions.
Commissioner Lippert: I agree, I don’t think that it is something that could be imposed nor would I want it to be imposed but the Staff Report specifically said to look at alternatives and other zones that might be applicable. In doing my research, my homework, this is what I have come up with. Had this property not been located in the SOFA Coordinated Area I would not be looking at it. The other part of it is that I did also notice that it is very close to the Professorville Historic District, which has other requirements.

Mr. Larkin: Just to clarify, the Staff Report was intended to clarify that when a property owner applies for a zone change designation the Commission is not limited to just looking at the zone change that is applied for, that the Commissioner can look at other zone changes. It wasn’t an invitation to second-guess the proposal but that is certainly within your purview to do so.

Commissioner Lippert: So is this within my purview what I am suggesting?

Mr. Larkin: It is within, yes.

Mr. Williams: It may be within your purview but at this point I think it is not productive for us to have this exchange. If you think there is an alternative that you should propose that as a motion and the Commission should consider it.

Vice-Chair Garber: Before we go there let me go to Commissioner Keller.

Commissioner Keller: My colleague Commissioner Lippert suggested a bunch of other ideas with respect to ways of perhaps accomplishing this. I am wondering if any of those kinds of approaches would satisfy what I understand are the goals which is one, to maintain the historic character of these two buildings in perpetuity, and two, to allow owners who are tenants in common to effectively each own one of the buildings and transfer those separately. So I was wondering, if as I understand the objectives, do you expect that there are other alternatives that would satisfy those two objectives of the applicant?

Mr. Williams: I don’t think there are. This discussion has gone on for a year-plus looking at different ways to try to make this work. I think the applicant feels that the only way it can really work is to be able to sell off that other lot. Once you do that you have to have a flag and none of our zoning districts currently allow that configuration. So a PC really becomes the mechanism that is available.

Commissioner Keller: One of the things that has been increasingly something I have been concerned about on the Commission is when decisions that I support or that we make the extent to which those decisions make for precedents and the implications of those precedents for other decisions for future developments. So I am wondering what you think about the precedent value of using PC with these kinds of deed covenants in terms of is that a good precedent, is it a bad precedent, is that something we expect to see more of, is there some process that we might want to improve for that?

Mr. Williams: Yes, I think first of all we feel like this is a good precedent as Ms. Bunnenberg said the HRB felt also. This is a positive precedent. On the other hand, I would tend to think
that if this seems to be something that others are interested in that we would look at it from an
ordinance standpoint and see if there is a change to the Zoning Ordinance that ought to happen.

I know when we talked with the Commission about the R-2 and RMD zones and this issue of not
allowing ownership of two separate units on those lots. That now is clearly prohibited in R-2
and RMD zones. One of the things that was brought up by some Commissioners was perhaps an
historic restriction to historic preservation might be a justification for doing that. So this might
be a kickoff to think about that a little more. Maybe when we come back and we are going to
look at some other techniques we have been thinking of to try to incentivize historic preservation
that may be a positive type of approach that then in the future wouldn't necessarily require the
PC to do that. It might allow the ownership type of approach with a covenant connected to it and
this precedent would serve as a stepping-stone to get there in a manner that would be codified at
some point in time if that seems to be the way you go. We would certainly visit with the HRB
before we would come to the Commission with any kind of proposal like that.

Commissioner Keller: Finally, there was the suggestion made by the applicant that there might
be some sort of inspections. I think that the comment about the City making annual inspections
is perhaps too burdensome for the City and probably unnecessary. The idea that the City would
have a right of inspection with reasonable notice I am wondering whether that is a reasonable
component that should be put into this ordinance and deed restriction.

Mr. Larkin: It is implied in the covenant. I don’t think it would be a problem to put it in the
ordinance as well. We could make that change.

Commissioner Keller: Sometimes making things explicit avoids arguments.

Mr. Larkin: Again, that is fine.

Commissioner Keller: Okay. Unless any of my colleagues would like to speak?

Vice-Chair Garber: Commissioner Tuma.

Commissioner Tuma: I have to say I couldn’t agree more with the HRB, with the applicant, and
with Staff. I think this is a great solution. There are a lot of different ways the applicant could
have gone here and I think us getting these buildings restored, or potentially restored, certainly
preserved in exchange for what I see to be very little difference is the right thing to do. This one
in my view is not a difficult one. I am going to be very supportive of the application and the
recommendation of Staff.

Vice-Chair Garber: Commissioner Sandas.

Commissioner Sandas: I wanted to say that originally upon reading the Staff Report I was
wondering what the tradeoffs were and I was concerned that the applicant was possibly
benefiting far greater than the community. The reason for requesting the zone change wasn’t
explicit in the application or in the Staff Report so it led me to wondering. So after hearing from
the applicant and community supporters I am also very enthusiastic about the preservation of
these homes through this zone change.

I need to put in a ‘however,’ when I joined the Commission a couple of years ago I learned then
that one of our goals through the Zoning Ordinance Update was to use the Zoning Ordinance
Update to reduce the number of PCs in the community. Since I have been on the Commission
we have looking at a lot of PCs, I can’t remember how many. It might only be two but it seems
like a lot. So with that in the back of my mind my comment is that I would like to continue
exploring the idea of using this as a precedent for something a little different, to create another
zone or something to codify the historic covenant and restrictions. I asked questions in the
beginning about is it really necessary to have a PC to make these historic restrictions stick, and
apparently the answer to that is yes.

There was another thing, trying to balance the notion of reducing the number of PCs or creating a
PC against the opportunity that this creates. By subdividing this property it creates the
opportunity of something that we as a Commission and City Staff have talked about which is
creating or improving the housing stock and maintaining smaller lot houses. So personally I am
weighing these things against one another. Because of the applicant’s economic situation
subdividing the property because of that can benefit another homeowner in a similar situation.
So the fact of the matter is that I am really supportive of this PC and would like to continue
exploring ways to help the historic designations stick.

Vice-Chair Garber: If there are no other questions I would like to, Commissioner Lippert.

Commissioner Lippert: Just following up on Commissioner Keller’s line of questioning.
Another possibility would be under the PC to not subdivide the lot but condominiumize the lot?
So in other words it would be one parcel with two ownerships, is that a possibility?

Mr. Williams: The applicant would have to speak to whether that satisfies their goals or not.
That is something that would be fine with us if that achieved their goals.

Mr. Larkin: I believe that if Staff were to look into that Staff would not be supportive of that.
Staff has been taking efforts with Commission and Council recommendations to try to eliminate
two-unit condominiums. So that would be inconsistent with the actions that have been taken by
Council recently.

Vice-Chair Garber: Commissioner Keller, do I hear a motion?

MOTION

Commissioner Keller: Yes. I move the Staff recommendation with the changes of first that a
right of inspection with reasonable notice be explicitly in the PC ordinance and in the deed
restrictions. Second, that Staff expand the justifications and rationale for the PC to indicate the
examination of the issues that Commissioner Lippert brought up and indicate to the extent that
they don’t satisfy the objectives. Does that make sense?
Mr. Williams: You mean specific to SOFA?

Commissioner Keller: Yes, with respect to SOFA.

Mr. Williams: Yes, we can reference the SOFA language.

Commissioner Keller: Right, reference the SOFA language and make the appropriate language in there linking to SOFA and how it applies or doesn’t apply.

Mr. Williams: Sure. If I could just clarify too, Paul mentioned at the beginning of the presentation that we have this issue of if there were fire or earthquake or something like that we would like to then also have you include that we would include a provision that would probably say that it would allow rebuilding but it would have to go through the HRB to assure that it is consistent with the historic character of the home. Obviously you are not going to rebuild the same building but that it is consistent with the historic character and intent of the PC.

Commissioner Keller: I will add that provision. Thank you.

SECOND

Commissioner Tuma: Second.

Vice-Chair Garber: Seconded by Commissioner Tuma.

I would like to add an amendment, and that is that the considerations for this PC also acknowledge the low impact that the project has on the community. Although it has already been implied the historical intent and that is specifically tied to the language of the PC. Finally, although it has already been expressed that it is also specifically tied to the covenant that is carried by the land.

Commissioner Keller: I accept those amendments.

Commissioner Tuma: Accepted.

Vice-Chair Garber: Would the maker like to make any comments relative to their motion?

Commissioner Keller: I think that this is a creative solution to a problem of allowing for separate ownership of these two houses that are going to be on two properties eventually and to allow those to be maintained and improved. I think that it is a good thing for the precedent of having much more ironclad historic preservation where the property owner is cooperative than was previously allowed. So I think that is a good thing and I would be supportive of considering how this could be used in the future under the appropriate circumstances.

Vice-Chair Garber: The seconder?
Commissioner Tuma: Two things I would say. I associate myself with the comments of
Commissioner Keller and I would also like to say thank you to the applicant for doing this. You
obviously didn’t have to do it there are other ways you could have gone about this. I think it is a
gift to the community and I appreciate it.

Vice-Chair Garber: If the Chair can take advantage of his temporary position ... I am sorry is
there further discussion? Commissioner Lippert.

Commissioner Lippert: I just have one last comment that I wish to make and it is actually I
guess in the form of a question perhaps. I don’t have too many concerns about the building in
the front, the Category II historic structure, but the Category IV is what is considered a
contributing building. Contributing means a building or group of buildings which are good local
examples of architectural style which relate to the character of a neighborhood, grouping in
scale, material, proportions, or other factors. A contributing building may have had extensive or
permanent changes made to the original designs such as inappropriate additions, extensive
removal of architectural detail, or wood façades resurfaced in asbestos or stucco. The question I
have is how would we or how would the City regulate the Category IV building if it has been
altered significantly in terms of doing review? What are we preserving here? It is really the
Category II building that we are talking about. The one in the back is already identified as a
Category IV. Without a historic structures report of some kind there is no way to determine what
it is we are preserving.

Mr. Williams: HRB has seen this and if they want to make changes to this structure they need to
go through HRB and they would have to make the determination that it is consistent with the
Secretary of the Interior Standards for rehabilitation. So it may or may not be high on our
category list but it still was deemed significant enough to include as a Category IV and is a
contributing structure. Again, it needs to be maintained in at least as good as condition as it is
and any changes unlike the current situation if this PC didn’t happen would have to be run
through the HRB.

Vice-Chair Garber: The maker of the motion would like to respond.

Commissioner Keller: My understanding is that the structure in the rear was originally a stable
and although I know that certain parents ask their kids whether they are living in a stable based
on how they maintain their rooms, I am assuming that the owner of the property does not wish to
live in a stable or have it restored to one. So it seems to me that the idea that in its current state
is a residence and is intended to remain so with future changes to it reviewed by the HRB is
certainly an improvement over the current restrictions on it, which I understand are effectively
none.

Vice-Chair Garber: With that the Chair will claim his temporary privilege to add a few
comments before he calls the question here.

I like Commissioner Sands entered this discussion this evening somewhat skeptical about the
use of using a PC for this particular use. I particularly appreciate Commissioner Lippert’s
investigation into the opportunity of using other tools that might better fit the hole and the peg here.

My understanding of the PC as it has typically been used or its use has changed in the City over a long period of time. Typically the issues are that there is some exceptional use and there is some significant public benefit. As I go through the argument that has been made here relative to identifying Comprehensive Plan policies I believe there is an argument to be made. However, there is nothing that I see in the Comprehensive Plan policies that directly calls out the utilization of the PC for this particular use. So again that lent to my ambivalence as to what the right decision is.

In particular because the PC deals with use we are not really changing the use here. It is residential and it will be residential. So that again contributed to the sense of ambivalence that I had. The public benefit, the barter as it was described, does present one but it is a relatively minor one given the entire neighborhood that we are talking about, given its impact relative to the neighborhood. I think though through the conversation this evening I have been convinced that the real public benefit isn’t the creation of the constraints around the historic structure itself but it is as was described in the discussions the opportunity to create the precedent for this to occur over a broader scale. That I think is the significant public benefit, that this becomes the example that can set the rule in the future. With that I will support the motion and I will also call the question.

MOTION PASSED (5-0-1-1, Chair Holman not participating and Commissioner Burt absent)

So rather than restating it can I simply ask for a vote? All those in favor of the vote as described by the maker of the motion say aye. (ayes) All opposed? The vote passes unanimously with Chair Holman not participating and Commissioner Burt absent. Thank you all for your help.

With that we will close this particular item and call Chair Holman back and enter into item number two. Thank you. We will take a small break for five minutes and resume at 8:30.