



PLANNING & TRANSPORTATION COMMISSION MINUTES

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Wednesday, September 9, 2015 Meeting

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6:00 PM, Community Meeting Room

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Call to Order: 6:03 PM

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Roll Call: Commissioner Michael Alcheck, Commissioner Kate Downing, Vice-chair Adrian Fine, Commissioner Przemek Gardias, Commissioner Mark Michael, Commissioner Eric Rosenblum and Chair Greg Tanaka. **Chair Tanaka absent**

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Acting Chair Fine: Good evening everyone and thanks for attending; I'd like to call to order this meeting of the Planning and Transportation Commission (PTC) for Wednesday, September 9th and as you'll notice we're meeting in the Community Meeting Room. Could we please take roll?

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Robin Ellner, Administrative Associate III: Commissioner Alcheck, Commissioner Downing, Acting Chair Fine, Commissioner Gardias, Commissioner Michael, Acting Vice-Chair Rosenblum, Chair Tanaka. Six present.

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And before we continue I need to make some announcements. As you see we're in the Community Meeting Room. This is our first time here. So please do not use the speakers that are actually attached to the table or the microphones. They do not work. We are going to have to share these ones that were provided to us by the Media Center. These are on so your eating will pick up, your whispering will pick up, and please do not speak over one another and wait to be called on in order to speak. This way it'll be easier for the transcriptionist and for me when I go to review prior to sending them out to you. For the public, Patrick, where are we having them? Public when your name is called if you could please come over here and actually we'll move it over here to speak and again just common courtesy because the cameras will pick up the outside noise as well. So if you have any questions please ask me now. No? I think we're good. Thank you.

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Acting Chair Fine: Thank you so much Robin.

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Staff: Jonathan Lait, Assistant Director; Cara Silver, Senior Assistant City Attorney; Robin Ellner, Administrative Associate III; Amy French, Chief Planning Official; Jodie Gerhardt, Interim Planning Manager

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Oral Communications: Members of the public may speak to any item not on the agenda; **3 minutes per speaker.** The Planning and Transportation Commission reserves the right to limit oral communications period to 30 minutes. **NONE**

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Speaker Time:

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Public Comment on Agenda Items: Members of the public may speak for 5 minutes on each agenda item. If there is a sizable crowd, the Chair may reduce speakers' time to 3 minutes.

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Quasi-Judicial Items: Applicants and appellants may speak for 15 minutes. All other members of the public may speak for 5 minutes. If there is a sizable crowd, the Chair may reduce speakers' time

48

1 to 3 minutes. Applicants and appellants are allowed an additional 3 minute summary at the conclusion of
2 all of the public testimony.”
3

4 Acting Chair Fine: Let's move on to Oral Communications where any member of the public may speak to
5 an item not on the agenda. Any cards?
6

7 Robin Ellner, Administrative Associate III: No.
8

9 Acting Chair Fine: Great.
10

11 **Agenda Changes, Additions and Deletions**: The agenda may have additional items added to it up
12 until 72 hours prior to meeting time.
13

14 Acting Chair Fine: I believe after that agenda changes, Item Number 3 we can discuss tonight, but we'll
15 actually be making a decision on it on the 30th of September to make sure that all stakeholders have
16 been properly notified. And Item 4 has been removed from the agenda to a date unknown.
17

18 **Directors Report**: Members of the public may not speak to the item(s). **Assistant Director Lait**
19 **provided the Commission an update of Council items.**
20

21 Acting Chair Fine: With that I'd like to turn it over to our Director for a report.
22

23 Jonathan Lait, Assistant Director: Thank you, Chair Fine. Just a couple of items to report; one is the
24 coming up on the City Council agenda next week or next Monday will be, excuse me, next I think it's
25 Tuesday night?
26

27 Robin Ellner, Administrative Associate III: Yes.
28

29 Mr. Lait: Next Tuesday is two items that the Commission may be interested in; one has to do with a
30 rezoning of the Santa Clara Valley Transportation Authority (VTA) lot, which I believe is in the 2700 block
31 of El Camino Real and a discussion on the business registry will be discussed. The following week there
32 will be a consideration of two ordinances that the Commission has considered, the Cal Ave. formula retail
33 and the Development Cap Ordinance will be presented the following week. And then perhaps Chair I'll
34 defer to you toward the end of the agenda about any comments regarding the Citizen's Advisory
35 Committee meeting last night.
36

37 Acting Chair Fine: Sure.
38

39 Mr. Lait: Thank you.
40

41 **Consent**

42 1. **NACTO Guidelines**: Adoption of NACTO Urban Street Design and Urban Bikeway Design Guides. For
43 more information, contact Holly Boyd at holly.boyd@cityofpaloalto.org
44

45 Acting Chair Fine: Great. Ok, let's move on to Item 1, which is the National Association of City and
46 Transportation Official (NACTO) Guidelines. So this is where staff is asking us to recommend adoption of
47 the NACTO Guides for urban street design and urban bikeway design. These are standards that are
48 promoted nationally and have been adopted by a number of local communities. I quickly checked this
49 morning and staff also gets some input. Oakland, Berkeley, San Francisco, Davis and a few other cities in
50 the area have adopted these. Of course our Comp Plan, our Bike/Ped Plan, our Climate Action Plan all
51 have strong support and prioritized investment in safe non-motorized transportations and these
52 guidelines provide some best practices to achieve those goals. With that I'd like to see if staff has any
53 quick presentation here.
54

1 Jonathan Lait, Assistant Director: So it's on Consent so if the Commission is comfortable with the report
2 and recommendation then you can simply move the Consent Calendar and vote on that. And if you have
3 any questions that we can answer we can do that otherwise we would come back for a formal discussion
4 later.

5
6 Acting Chair Fine: Any questions or comments? Do we need a Motion for Consent?
7

8 MOTION
9

10 Acting Vice-Chair Rosenblum: I make a Motion to approve the Consent.
11

12 SECOND, VOTE
13

14 Acting Chair Fine: I'll second that. Let's take a vote. All in favor? This item passes unanimously.
15 Thanks so much.
16

17 MOTION PASSED (6-0-1, Chair Tanaka absent)
18

19 **Commission Action:** Motion by Acting Vice-chair Rosenblum, second by Acting Chair Fine to
20 approve adoption of NACTO Guidelines. Motion passed unanimously (6-0-1, Chair Tanaka absent)
21

22 Public Hearing

23 2. **224 Churchill [14PLN-00364]: *Quasi-Judicial** Request for hearing and Planning and
24 Transportation Commission recommendation regarding the Director of Planning and Community
25 Environment's denial of a Variance application to allow for a reduction in the required front setback
26 (contextual) from 37 feet-1 1/4 inches to 32 feet for a new, two story single family residence at 224
27 Churchill Avenue. For more information, contact Jodie Gerhardt at Jodie.gerhardt@cityofpaloalto.org
28

29 Acting Chair Fine: Item Number 2 is 224 Churchill. This is a quasi-judicial matter and a request for
30 hearing and Planning and Transportation Commission (PTC) recommendation regarding the Director of
31 Planning and Community Environment's denial of a variance application, deny a front setback. Are there
32 any disclosures?
33

34 Commissioner Downing: I'm not sure if this is exactly applicable, but I did look up this property on
35 Google Maps. I did look up a satellite image of this just for your information (FYI) because I wasn't quite
36 getting a full picture of it just from the description.
37

38 Acting Chair Fine: Thanks. Can we go with the presentation please.
39

40 Jodie Gerhardt, Interim Planning Manager: Yes, thank you. My name is Jodie Gerhardt, Interim Current
41 Planning Manager. The subject property in front of you is located at 224 Churchill Avenue and is a 100
42 by 130 deep lot located on Churchill Avenue in the R-1 10,000 zoning district. The proposal would
43 demolish an existing single family home and construct a new two-story home with an attached garage
44 and a basement level. The individual review, this project does have two components and so the
45 individual review component of the project, which is the two-story home which included a compliant
46 setback was recently approved on September 8th and the variance would allow a 5 foot 1.25 inch
47 encroachment into the front contextual setback was denied in May and the property owner has requested
48 this hearing.
49

50 So just to give a little bit of background about how we arrived at this front setback, this particular
51 property does in a sense have three front setbacks. There is the standard 20 foot setback for any R-1
52 zoned property, there is also a special setback that is on Churchill Avenue and that is 24 feet in this case.
53 Also contained in the code in the R-1 section of the code is the contextual front setback which in this
54 case averages out to the 37 feet 1.1 inch and a fourth, one and a fourth inches. So hence given all of

1 the different requirements the contextual front setback being the greatest is actually the front setback
2 that needs to be applied on the property.
3

4 So we do have a diagram that shows how that contextual front setback was arrived at. I believe the
5 applicant will go into a little bit more detail about that, but we do take out the smallest and the largest
6 property, we take out any corners that are facing another street and that sort of thing before we look at
7 the average. Then just to give you an idea about how the existing house sits on the property there is an
8 existing front porch that's about 26 feet back and the main house is 34 feet back from the front property
9 line. And then the proposal the IR proposal that was approved actually shows the house all the way back
10 at the 37 feet; however, the proposal before you today with the variance is to have a 32 foot front
11 setback.
12

13 So in the attachments we do have the findings for the variance that further explain why the project was
14 denied. There, we believe that there are no special circumstances related to this project and actually
15 there is an oak tree that's located in the front yard. So having the house set back further is actually
16 helpful to that oak tree giving it more room to breathe. The granting of the variance would be a special
17 privilege that would be inconsistent with other properties and it would be inconsistent with the
18 Comprehensive Plan, the individual review guidelines, and the intent of the contextual front setback. This
19 concludes staff presentation, thank you.
20

21 Jonathan Lait, Assistant Director: If I could just make one clarification, maybe ask Jodie to help me out
22 with this. I believe in the presentation there was a comment that the greatest setback and the
23 shallowest setback are thrown out in the discussion, but I think that's when there's five or more parcels
24 in play and here there are less than five. So those, those extremes are not removed in the consideration
25 of the subject proposal.
26

27 Acting Chair Fine: And I believe the applicant would like to make a presentation?
28

29 Bogdan Cocosei: Hi, I'm Bogdan Cocosei, my wife. Actually we own basically the property at 224
30 Churchill and so thank you very much for taking the time actually to listen to kind of our point of view
31 here. And we have been residents of Palo Alto for almost eight years now and this is our first house. We
32 had no idea what we were getting into. So now we know a lot more. So in interest of time, actually I'm
33 going to pass the microphone along actually to Richard which will explain basically some of the definitions
34 that are applicable kind of here and then John who's our architect actually will present basically the
35 design implications and the contextual setback issues.
36

37 Richard McDonald, Hopkins & Carley: Good evening, Commissioners; my name is Richard McDonald. I'm
38 an attorney with Hopkins & Carley. I represent the applicant, the property owners, Mr. and Mrs. Cocosei.
39

40 My contribution tonight is very brief. I just wanted to point out to the Commission that the manner in
41 which we're, we have tried to frame our appeal as well as the project itself would be to allow this
42 Commission to make the findings necessary under the code to find, to grant a variance and with
43 particular regard to the issue of substantial hardship. As a lawyer I look at case law and the cases that
44 have looked at and evaluated the issue of substantial hardship define it in a way that we are trying to
45 frame our appeal and it would allow the Commission to find the variance. A substantial hardship under
46 the cases and I'm citing now a case for the record and ready reference is the Committee to Save the
47 Hollywood Land Specific Plan versus City of Los Angeles in which the granting of a variance was upheld.
48 And the case cites the definition of unnecessary hardship as where the natural condition or topography of
49 the land places the land owner at a disadvantage vis-à-vis other land owners in the area such as
50 peculiarities of the size, shape, or grade of the parcel. The Zach Keysian case also discerned in the
51 hardship requirement an additional finding that the hardship be substantial and that the exception sought
52 must be in harmony with the intent of the zoning laws. I can provide the legal side of 161 Cal Ave.
53 fourth at Page 1168. So we've attempted to again frame this appeal in the context that would allow the
54 Commission to make the findings necessary in a manner consistent with the case law and that is indeed
55 in our view and I'll let the architect describe the project on its merits in more detail and I thank you for
56 your time.

1
2 John Kluf, Kluf Architecture: The diagram that's up or sorry, I'm sorry. My name is John Kluf of Kluf
3 Architecture, thank you for hearing our case. If you take a look at the diagram that's up on the board
4 the block has a special setback of 24 feet which was mentioned and the subject house, our project, 37
5 foot setback. The purpose, the reason behind that setback is an oversized setback at the neighboring
6 property which is clearly an outlier on this block. And we're asking for a still quite large setback of 32
7 feet, which is farther back than all the other houses on the block except for this outlying property.
8

9 You can see from the diagram the outlying lot is the largest on the block and it's also much deeper than
10 our lot. So deep in fact that if we had to set our house back to match theirs for some reason on a
11 contextual basis our house would be deep into the rear setback and would not even be buildable. That's
12 the difference in the lots.
13

14 Also the tree was mentioned. We all love big oak trees and the arborist's report indicates that the oak
15 tree on the lot will be protected with a setback of 32 feet. We're not asking to go any farther forward
16 than what the arborist approved for the tree. Next slide.
17

18 This shows what the contextual setback would be if the outlying properties were excluded. The staff
19 report contains our variance application and on Page 2 of our letter we cite an excerpt from the
20 Committee of the Whole from June 18, 2001, and it indicates that the committee intended to exclude
21 outliers from the contextual setback calculations, but because the way the law was drafted this intention
22 to eliminate outliers is not always borne out in practice. For blocks with three or fewer houses not
23 applicable because there's no contextual setback requirement. For blocks with four houses the
24 contextual setback applies, but outliers can't ever be excluded. For blocks with five or six houses the
25 contextual setback applies, but it's a crap shoot whether the outliers would or would not be excluded.
26 That's our situation.
27

28 We lost the dice roll because both the corner lots have front doors that face the side street. Please note
29 that the garages of the front, of the corner lots face Churchill. So for all intents and purposes these
30 houses are part of the perceived street wall on Churchill, but because their front doors face the side
31 streets they don't count in the calculation. So we're left with four houses and the outliers may not be
32 eliminated. If one of these houses were remodeled so that the front door faced Churchill, but no other
33 changes were made we'd have five houses that count on this block and outliers would be excluded.
34 Furthermore, if there was one more house on this block for a total of seven the outliers would be
35 excluded. If the outliers were excluded we'd have a contextual setback calculated just under 32 feet and
36 we're asking for 32 feet. So if one front door changed on this block or there were one more house on
37 the block our requested setback would comply with the contextual setback. Our proposal clearly
38 complies with the intent of the code which is to remove outliers and respond to context. Only the
39 technicalities of one front door happens to be facing on a corner lot or how many lots are on a block
40 determines that we need a larger setback. Next slide please.
41

42 This one further explores the intent of the committee on contextual setbacks. The committee excerpt
43 and our variance letter also states contextual setbacks should not be applied for blocks with special
44 setbacks. Clearly this did not make it into the law since our block has a special setback, but we're still
45 subject to the contextual setback requirement. To explore this briefly without the contextual setback the
46 special setback of 24 feet would govern and so our 32 foot setback is far in excess of that. This diagram
47 also illustrates that our setback request of 32 feet exceeds the hypothetical contextual setback had say
48 both the corner houses had their front doors and not just their garages facing Churchill. Next slide
49 please.
50

51 The intent of contextual setbacks is to minimize the effects of outliers. This diagram shows that as each
52 property develops over time on this block each house would be pulled back farther and farther because
53 the contextual setback is increased each time. The effect over time of the outliers pulling back the other
54 houses on the block creates divots in the street wall and leaves void spaces. And pages five, the next
55 two slides show this is the larger block in the current situation and the next slide shows that over time as

1 contextual setbacks would be applied on these blocks that have five or six houses you're creating divots
2 that pull these houses back from the street wall and are contrary to the idea of working into context.
3

4 So in conclusion, the conditions that disadvantage our client are that their block has one huge property
5 with a very deep front setback. This house is an outlier and pulls all the other houses back as the
6 contextual setback is currently calculated. Without this house the 32 foot setback we're asking for would
7 fit nicely within the contextual setback on this block. The block also has six houses on it, not seven, and
8 of the six houses both front doors of both corner houses happen to face the side streets. If there were
9 just one more house or if just one more corner lot had a front door facing Churchill the outlying
10 properties would be eliminated and our requested setback would be in compliance technically as well as
11 with the intent of the code.
12

13 These conditions on the block disadvantage our clients forcing them to move their house further back on
14 the lot leaving a large unusable front yard and a smaller rear than their neighbors. Our request complies
15 with the intent of the contextual setbacks which was to eliminate outliers and create a more uniform
16 street wall. Because the number of our houses on the block and because of the fact that both corners
17 happen to have front doors on the side streets the law taken literally means that our property would have
18 to be setback farther from the street wall than what would make sense for its contextuality. As Ms.
19 Gerhardt stated in her staff report, blocks with our number of houses are not well thought through in this
20 code. Her recommendation was to change the code, but variances are the vehicle for allowing projects
21 like ours that comply with the intent of the code on lots like ours that have hardships as defined in the
22 case law to be approved while the law is reconsidered. Therefore, we respectfully ask you to overturn
23 the denial of our variance and support our appeal. Thank you.
24

25 Acting Chair Fine: Thank you. I'd like to open up any public comments. Do we have any speaker cards
26 on this issue? None? OK, then let's turn it over to the Commission. Maybe let's have five minutes for
27 questions. We'll start that side. Commissioner Downing.
28

29 Commissioner Downing: Sure. So if I can get some clarity on the property is there a pool at the back of
30 the property in the backyard?
31

32 Mr. Cocose!: No.
33

34 Commissioner Downing: No pool, ok. And then have you had any conversations with your neighbors
35 about your intended designs? Have they expressed any concerns or issues?
36

37 Mr. Cocose!: We have, we had conversation with them. Their only concern was basically to postpone the
38 build for a year so that doesn't affect the school schedule.
39

40 Commissioner Downing: Ok and then the last question I have is the difference, the difference here that's
41 being asked between the 37 feet and the 32 feet it's not a particularly large one. It's five feet difference,
42 but I guess I'm wondering if there's a particular significance there? Like if there's something you're
43 planning for that backyard that would, that this would get in the way of or is it just that it creates more
44 unusable space for you?
45

46 Mr. Cocose!: It's basically the unusable space. If you look actually on the diagram actually the yard
47 actually is very small in the back because most of it is actually in the front. And the connectivity within
48 the city backyards that actually creates a view for all of these city properties actually like all our
49 neighbors actually have very low fences in order to kind of enjoy visiting each other's back yards and if
50 we move the house basically [unintelligible] the, their view, right? And similarly for us of course, but it's
51 also for them.
52

53 Commissioner Downing: Ok, thank you.
54

55 Acting Chair Fine: Commissioner Gardias. I'm just going to go down the line.
56

1 Commissioner Gardias: Thank you, Mr. Chairman. So the question is to the staff. Could you please tell
2 us what is the history behind those parcels where those houses subject of that great outliers are? There
3 is couple of the properties here on this considered block and on the adjacent block where the middle
4 houses are pretty much set back farther and I was just passing by them yesterday and I thought that
5 maybe there was some historical reason that those houses maybe were developed earlier and then would
6 be a change in the habits or accommodations or the design style that was causing the properties just to
7 farther flow toward the street that was changing the, pretty much the nature of how the houses were
8 placed on the property. But this could have been just my thinking so if you could just put some historical
9 layer on top of this I would appreciate this. Thank you.

10
11 Mr. Lait: I appreciate your observation on that. Unfortunately we don't have any historical knowledge
12 about the pattern of development in the block and why this property that we're talking about was
13 setback further or on the other block why it was setback further.

14
15 Commissioner Gardias: But the house in the middle is earlier? It's much older? 1929, so it's a earlier
16 property than the adjacent properties, right?

17
18 Mr. Cocose: The property that is newer is actually the one next to the outlier the one to the right of the
19 outlier, which is 1988 I think so it's a few years before contextual setback. So they were not subject to
20 contextual setback when they did it. They were subject to [unintelligible].

21
22 Commissioner Gardias: Ok. So the observation I had could be right? Those houses in the middle of
23 those two blocks were developed earlier.

24
25 Mr. Cocose: Pretty old. 1939 this one.

26
27 Commissioner Gardias: Ok. Thank you.

28
29 Acting Chair Fine: Acting Chair Rosenblum. Acting Vice-Chair.

30
31 Acting Vice-Chair Rosenblum: Hi, my question's for staff. I found the argument by the applicant pretty
32 compelling, which is that the intent of the setback is to have uniformity in our neighborhoods. And it
33 does seem that there is a mathematical issue with only having a couple of houses to compare which
34 means that you have to have the outliers included and the technicality of the two corner lots happening
35 to have their doors on the other side, but if you look at not only this block, but the two adjacent blocks
36 the two blocks or the three blocks across from those blocks it's much more uniform to comply with the
37 applicant's wishes. They would put the neighborhood into much greater uniformity. So I'm curious in
38 your opinion is that not the spirit of the setback ruling? I understand and you stated very clearly that this
39 is in violation of the letter of the ruling and I agree with that. There's a ruling that if there are five, if
40 there are fewer than five properties then the outlier shall not be included and therefore at least this
41 mathematical anomaly of having a major outlier included in the sample, but I'm curious if you also think
42 that this is in violation of the spirit of what's trying to be achieved which is uniformity?

43
44 Mr. Lait: No, I don't believe that it is in violation of the spirit of the contextual... I mean I think the fact
45 that you have an outlier is part of the context and that is repeated on this block and it's on the adjacent
46 block and I don't know that because you have an outlier that suddenly the argument of context is pushed
47 aside. At some point the drafters when they when this was adopted made a very deliberate decision to
48 make a distinction between four and five lots and the corner lots and the outliers. So I'm clearly
49 empathetic to the condition that the applicant that they find themselves in, but I don't believe it
50 inconsistent with the intent to approach it the way that the staff's approached it. I don't think it's
51 particularly inconsistent the way the applicant's proposed it, but all things being equal what we have to
52 fall back on is how the code is drafted and how this particular project applies to that circumstance.

53
54 Acting Vice-Chair Rosenblum: Except that the code asks us to do a balancing test around the contextual
55 environment which is again I think any kind of plain reading of this is that what they're proposing is much
56 more in line. If we took them the deviation of their lot versus the others you're getting a higher deviation

1 by going with staff proposal than what they are doing, which would be a lower deviation and so I think
2 that that's why you bring it in front of humans to help with that judgement. They've applied the
3 algorithm citywide and I think this is a weird circumstance that you happen to have two houses that don't
4 count and then you get below the minimum so this kind of strange outlier does count and therefore I
5 mean I don't think all these things can be made by machines. So anyway I think you've answered my
6 question and I get it. I think that's my only question. So thank you.
7

8 Acting Chair Fine: I tend to agree with Acting Vice-Chair Rosenblum that the issue really is that the
9 outliers can't be excluded and that the contextual setback may need an update as mentioned in the
10 report. So I think something I would comment on, so I'm questioning it. I guess my question is more
11 that in the Director's opinion this variance doesn't meet the findings, but I had some specific questions
12 about that. Finding Number 1 is about special circumstances for size, shape, topography, location, and
13 surroundings. Doesn't this fit the definition of location and surroundings?
14

15 Mr. Lait: I think you have to continue reading the [unintelligible] finding which talks about how those
16 conditions would deprive the property owner from the privileges enjoyed by the properties. And the fact
17 that they can build an otherwise good compliant structure and achieve the same floor areas that the
18 other properties in the area can achieve that the setbacks there's nothing about the setback itself that
19 constrains the development.
20

21 Acting Chair Fine: So I guess maybe the privilege I'm speaking of then is the extra five feet in the private
22 backyard. I think it's also laudable of them that they might want to share with their neighbors a little bit
23 in terms of sight lines and stuff. But everybody wants a little bit more space in the backyard and it
24 seems like this contextual setback in this issue is doing exactly that to make this five feet in front rather
25 than behind. Does that count as a privilege?
26

27 Mr. Lait: From staff's perspective it does not.
28

29 Acting Chair Fine: Ok, why not?
30

31 Mr. Lait: Well we speak of privilege I think what we're talking about is how other similarly zoned similarly
32 shaped properties enjoy and develop their property based on this, these standards that are set forth with
33 the height, the setbacks, the floor areas, and so forth and yeah there's a greater setback that's required
34 in front, but that's not denying the property owner use or enjoyment of the property. And I guess I
35 mean again I'm very empathetic to the condition and I think where we find ourselves is that it's the it's
36 more of a process to how to get it's a process of getting the applicant from where they are to where they
37 want to be and if it is the case that the finding cannot be met we don't approve a finding a variance
38 when really what we need to do in this particular case is amend the code which we think is the solution.
39 I think if we, I appreciate the purpose section we're trying to do and the interest in wanting to solve the
40 problem, but I think there's the proper way to solve the problem and that's kind of and that's why we
41 landed on the decision point that we did with respect to the variance part of it.
42

43 Acting Chair Fine: So I'm not going have you repeat Commissioner Rosenblum's question about the spirit
44 of variances and how they are meant to be a stop gap or escape valve. Hypothetically what happens if
45 the City approves a variance without meeting the findings? Is that even possible? Does it open loop
46 hole?
47

48 Mr. Lait: Well, so I think decision maker and I'll let the attorney speak to the legal aspect of it, but this
49 body so the Director makes a decision based on a set of circumstances, the administrative record, so on
50 so forth. This body in its review of the administrative record may very well come to a different
51 conclusion and that's perfectly fine. It would be based, I mean you would articulate your reasons why
52 you believe the finding could be made. And that information would be then moved forward to the City
53 Council for their deliberation.
54

55 Acting Chair Fine: Those are my questions. Commissioner Michael.
56

1 Commissioner Michael: So in no particular order, I'm inclined to think that the applicant's case is
2 persuasive to me. I was particularly interested in the comments from the applicant's architect and share
3 some of the thoughts expressed by Vice-Chair Rosenblum. I'm not certain that there's this bar that has
4 to be crossed of amending the code. One of the words in the code might be something that we could
5 interpret in conjunction with findings and that's the word average. When I went to this first of all
6 knowledge I did a Google search and it directed me to Wikipedia. It turns out that average has many
7 meanings and I think that the staff report clearly applies the arithmetic mean and by no means is it clear
8 to me that the arithmetic mean is an appropriate formula or methodology for average in this setting. So
9 without amending the code I mean the other most common applications of average are mean, median,
10 and mode. If there's probably because the limitations of the small data set you really can't use mode,
11 but if you had median it would be 32 feet with the three other parcels. So without amending the code
12 you should adopt the methodology of median rather than arithmetic mean and we're done.

13
14 I think that the anomalies that are created in the historic application of this code section I mean there's
15 three or fewer parcels or five or more are indications of the requirement of a judgement. I think the
16 taking out the smallest and the largest when there's five or more is application of the methodology of the
17 truncated mean. The truncated mean is probably a preferred or more accurate methodology when
18 determining an average. And so in that case you would without question take out the 236 Churchill
19 property and then and work the analysis from there.

20
21 On the substantial hardship question I really think that the issue of the usability of the backyard in
22 relationship to the overall lot size is a question of potential or actual substantial hardship and just as a
23 disclosure I have a property which has an unusable backyard because there's a very small rear setback.
24 And we've had some problems with how we would use the site which we had to do sort of a planning
25 battle in that community until we get a solution, but I think that the forcing the house to be located
26 further back because of this I think stretched interpretation of contextual setback does in fact lead to a
27 finding of depriving a property owner of privileges owned by other adjacent properties and I would
28 support that as a finding.

29
30 And then I'm a retired lawyer and so the looking into the intent of the committee is something that I
31 think is of great importance with the issue of whether or not if there's a special setback applicable to a
32 block then this would be carved out from the contextual setback applications. I think that may be a
33 finding that you come to looking at the committee proceedings and another justification for deciding in
34 favor of the applicant. I think that the whether or not to exclude the outlier is not really the right
35 question. I think the other questions that I raised earlier could be dispositive and that's the basis on
36 which I would suggest that we at the appropriate time side with the applicant's request.

37
38 Mr. Lait: There's not a question to staff, but I just wanted to make two comments if that's ok? So the
39 code sets forth the, what a required rear setback is and it's 20 and in this case the applicant's proposing
40 46. So from at least the code perspective that minimum number of yards is provided for amply. And
41 with the comment about the definition of average the code actually tells us what average is, there's a
42 definition that says average means and it talks about the distance between the property line to the front.
43 So I don't think there's means for interpretation with the code that is, speaks to that, that definition. And
44 that's in the contextual front setbacks portion of the code.

45
46 Commissioner Michael: I think in the Comprehensive Plan there's some great deference given to the
47 character of existing, the existing character of neighborhoods. And I think the notion that there should
48 be sort of a cookie cutter 20 foot backyard setback isn't in the character of this neighborhood. I think it's
49 a more ample lot and in proportion the balance between the front and the rear that may in fact be a
50 substantial hardship so I would quibble with the application of a cookie cutter measurement in this
51 particular neighborhood. And what was the other comment? I didn't...

52
53 Mr. Lait: Average.

54
55 Commissioner Michael: Oh, so I think your citation of the code still doesn't address the question of
56 whether you use the arithmetic mean, the truncated mean, the median, or some other methodology that

1 might be appropriate. If in fact this code section should be revised that in Palo Alto will be sort of a
2 never ending process and we need to make a decision with this property sooner than that revision can
3 happen.
4

5 Commissioner Alcheck: Ok, thank you for your report. In my ongoing effort to be thorough and concise
6 I'll start at the end. I would enthusiastically support recommending that City Council grant this variance
7 and there's a little bit of irony here. Tonight we're going to hear on Item 5 areas where we can create
8 greater clarity in our code because it's not really precise and it doesn't achieve all of its objectives on the
9 way we intended it to. And I think this is sort of a great example of how there was an intent that is not
10 being met in this particular block and unfortunately our code can't really serve every possible scenario
11 well. And that's why it's and we have an ongoing process of editing it as we discover issues we try to
12 address them and sometimes we don't and I think when we don't do it as quickly as theoretically
13 humanly possible some people suffer as a result and I think that this could be interpreted as a hardship.
14

15 There's a lot of unique things going on on this site. The neighbor who has the enormous setback, I'm
16 guessing here, but I would be interested to know if that property is half an acre. It looks like it's over
17 20,000 square feet (sf). And it's very convenient for the largest parcel on this map or on this on the map
18 I have to have a huge setback because it doesn't impact his ability to have a house the maximum size
19 home you can have in Palo Alto is 6,000 sf. If you have a 20,000 plus square foot lot 6,000 is your limit
20 even theoretically the equation to determine your square footage could get you higher, 6,000 is your cap.
21 I don't know if the lot's 20,000, but I'm guessing because of its width and depth. And so this individual
22 could theoretically put their lot anywhere within the setbacks and still have ample use of the space. So I
23 think that the fact that that particular home is set back so far suggesting that there is a disadvantage on
24 all the lots.
25

26 I also think that I am not a huge fan of contextual applications of our code because in this particular
27 instance there's a special setback so 90 percent of our R-1 or maybe more is subject to the standard
28 setback of 20 and then we have certain streets where we have a special setback, in this case 24, which
29 means that there was an intent that the homes come within 24 feet as opposed to 20. Which I would
30 argue 20 is actually a very small setback in residential neighborhoods which then implies that we do have
31 a preference for homes being kind of close to our streets and a preference for larger backyards. And the
32 fact that in this particular street they set a special setback of 24 implies that they had this secondary
33 standard and I think you see that in many of the homes on both sides of the street and all along the rest
34 of the street past these, this block.
35

36 I think that I know the, I know that according to the letter of the law you can't, you can't not include this
37 parcel and I think that's why the basis for the Director's decision and for the Planning staff's decision is
38 coming from. I think we're in a position to determine whether or not there should be some flexibility
39 because of the hardship created by that calculation. I don't think we need to sort of get too heavy into
40 the definition of average. I think we can accomplish this by suggesting that this outlier shouldn't be
41 included. Again it's extremely convenient for the, this size lot to have the largest setback and as a result
42 he's affecting the parcels all around him.
43

44 I really think it's a mistake to assume that our code is perfect. And I think there are always going to be
45 some technicalities that we, that should be considered at this level and I think that if we assume that the
46 implications of the code, I think it's I also think it's can be a dangerous game to sort of evaluate intent. I
47 feel much more comfortable looking at the street and saying look, maybe the, I'll end here. Maybe the
48 definition of contextual setback is X, but when you think of the context of the actual street the suggested
49 36 foot setback is that what it is? 37 foot setback doesn't seem contextual at all. It seems like it would
50 create another outlier, which I think would be unfortunate and for that reason I maintain my original
51 statement which is that I would enthusiastically support a Motion to recommend that the Council grant
52 this applicant a variance.
53

54 Acting Chair Fine: Thank you. Commissioner Downing, another question?
55

1 Commissioner Downing: Well, I'd like to make a comment. So in terms of whether or not this is
2 compliant with our Comprehensive Plan, there's actually a policy in the Comprehensive Plan which
3 specifically says that you cannot build a tall fence in front of your property and which specifically says
4 that the view of the house should not be obstructed. The Comprehensive Plan itself says that we want
5 neighborhoods where you can walk down the street and you can actually see the houses. That's one of
6 our aesthetic goals, it's one of our preferences. The house that is the outlier and the house which now
7 this house is supposed to emulate actually doesn't follow that policy, you can't even see that house from
8 the street it's so far back and so wooded in front of it. And so following the house that's already not
9 compliant with the Comprehensive Plan I think is odd and I don't think that's really where we want to go.

10
11 And I agree that within this language without needing to go any further we can find, I think we can find
12 the things that we need. This talks about special physical constraints. I think the fact that this is the
13 only lot that's so short on that, this entire street is a real physical constraint. That is weird. It is a
14 peculiarity for that particular street. I would also add that in terms of constraints I sort of hear well, they
15 still get a big backyard, but this larger house has enough room that it has an accessory dwelling unit. I'm
16 not sure that if this setback were permitted as it were that it would actually still have room for an
17 accessory dwelling unit or if it did whether or not it would still look as nice and give as much space as
18 one would want. So I think that not being able to build such a unit or being able to build it with further
19 constraints really does impinge on this, these people's enjoyment of their property. So I think there are
20 real physical constraints here.

21
22 And I think that it's also, I do think that this rule qualifies for rule cleaning up because it's a very odd
23 rule. Because it's a rule that only applies in blocks of four. How odd. We have one rule for five and up
24 and we have one rule for three and under and then we have yet another rule for four. Really? Really
25 four deserved a special rule? So I would definitely put this on the list of things that we should go back
26 and we should look at and I agree with the applicants that I mean if you follow this rule to its logical
27 conclusion all the houses on this street end up being pulled back, all of them over time. Which again
28 runs counter to an explicit goal we actually have in the Comprehensive Plan and it makes this street less
29 walkable, it makes it less enjoyable, it makes it feel less safe when you can't actually see any of the
30 houses. So that's my thought.

31
32 Acting Chair Fine: Thank you. Commissioner Gardias.

33
34 Commissioner Gardias: Thank you, Mr. Chairman. So I'm going to offer a different perspective on this. I
35 believe that when I read the code and when I walk around this neighborhood it makes sense. It pretty
36 much reflects this was happening in this neighborhood a hundred years ago when this neighborhood was
37 created or maybe a little bit earlier. But nonetheless this is R-1 10,000 sf lots and then pretty much
38 when they were built back then that was pretty much the style and the setback as it is expressed in the
39 code it pretty much follows the style of this neighborhood and doesn't allow just to create the uniform
40 line specifically just to preserve the way of life that the citizens of this neighborhood had decided to erect
41 many years ago. So I believe that this makes sense from this perspective, but then of course there is a
42 question on this specific property and approach to this four lot calculation of the property so just
43 agreeing with the specifics of this, of this code pronunciation I want to just go back to the property for a
44 moment. So because, because this property is truly affected by this one, one building and then by
45 building new house the owner loses the privilege of just having the house being closer to the street
46 where actually the house already is, right? We're just because of this restrictions we're just we're forcing
47 the owner to set the house farther back because of this regulation. So giving that loss of right I would
48 support some, some ease on this property to allow this proposal as it was presented, but of course as I
49 just mentioned before I totally support the way that this neighborhood is zoned with the existing setback
50 because I think this reflects the historical nature of the and the intent of the zoners. Thank you.

51
52 Acting Chair Fine: Acting Vice-Chair Rosenblum.

53
54 MOTION

1 Acting Vice-Chair Rosenblum: Yes, I'd like to make a Motion that we accept the applicant's call for an
2 approved variance.

3
4 SECOND

5
6 Commissioner Alcheck: Second.

7
8 Acting Chair Fine: Would you like to speak to your Motion?

9
10 Acting Vice-Chair Rosenblum: Sure. I'll just repeat some of the points that have already been made. I
11 do believe that this represents a substantial hardship. Palo Alto land is scarce. We enjoy any bit of land
12 that allows us to sit in our backyard with slightly less obstructed views. Neighbors will also appreciate
13 that. That is I think the value to any of us living in Palo Alto we know that is significant. So I accept that
14 this is a substantial detriment to their life. At the same time I think that actually their application makes
15 the neighborhood more consistent, which is the intent of the setback, of our setback codes. So I think
16 this both makes the neighborhood more consistent and does allow the applicant and their neighbors
17 something better. So I think sort of triumph of human logic over the algorithm.

18
19 Acting Chair Fine: Would you like to speak to your second?

20
21 Commissioner Alcheck: I'll just add that I want to clarify that I support this Motion not because I think
22 that this we need to create equity among parcels that are different. I think that the underlying theme
23 here is: are we, is the intent of the special setback and more particularly the context of the neighborhood
24 being preserved here or not? And I want to add another point that I think is just really relevant. We are
25 very aware of how involved our community is in decisions like this and I think it's very telling that allow
26 me to make an assumption here that the neighbors were notified about the meeting and the fact that we
27 don't have a neighbor here suggesting otherwise I think speaks volumes about this. We didn't get any
28 emails about this item from any neighbors suggesting they were opposed to this decision and or this the
29 potential for this decision and I think that that's also very telling. So that's it.

30
31 Acting Chair Fine: Any other comments from the Commission? I'll just say I want to thank the applicant
32 and their team for coming. I especially found the diagrams extraordinarily helpful and I do want to echo
33 the issue that I think over time this does have a downhill effect on the neighborhood especially with
34 regard to the Comp Plan. That said I just want to put it out there does the Commission feel we could
35 provide the proper findings to accept this variance? A number of us have each touched on those various
36 three findings we need to make and then we're going to focus one to explicitly address in our Motion.
37 Commissioner Downing.

38
39 Commissioner Downing: I feel that this Commission has made pretty good arguments for why we do see
40 this as a real constraint, why we see actual physical constraints on this property and the way that this
41 property is shaped as well as the lack of actual lack of enjoyment that this kind of hole makes.

42
43 MOTION

44
45 Acting Chair Fine: Anything else? Let's take a vote. All those in favor? Great, so the Motion passes and
46 just for the record the Motion that we... we're talking, the Motion passes unanimously. Thank you. And
47 we were using the staff recommendation, but instead of the word uphold we say reject. Great, thank
48 you so much.

49
50 MOTION PASSED (6-0-1, Chair Tanaka absent)

51
52 Mr. Cocose!: Thank you very much.

53
54 **Commission Action:** Motion by Acting Vice-chair Rosenblum, second by Commissioner Alcheck to
55 accept Applicants request for variance. Motion passes unanimously (6-0-1, Chair Tanaka absent)

1 3. **Los Arboles Single Story Overlay: *Quasi-Judicial** Request by Rebecca Thompson on Behalf of
2 the Property Owners of the Los Arboles Tract #2396 for a Zone Change from R-1 Single Family
3 Residential to R-1(S) Single Family Residential with Single Story Overlay. Environmental Assessment:
4 Exempt from the California Environmental Quality Act per section 15305. For more information,
5 contact Amy French at amy.french@cityofpaloalto.org
6

7 Acting Chair Fine: Our next item is Item Number 3, the Los Arboles Single-Story Overlay. This is a quasi-
8 judicial matter evaluating a zone change from R-1 Single Family to R-1(S) Single Family Residential with
9 Single-Story Overlay. Let's start with any disclosures. So I should disclose that I have family friends in
10 this neighborhood and I was recently at their house in their backyard swimming in their pool and they
11 complained that if there were second story houses people would be able to see me swimming in their
12 pool.
13

14 Cara Silver, Senior Assistant City Attorney: You know I should also just clarify for the record that this is
15 actually a legislative matter. So it is always helpful to have those types of disclosures.
16

17 Acting Chair Fine: Could you explain (interrupted)
18

19 Ms. Silver: Yeah, so a legislative matter is a typically thought of as a rezoning or a zone change that
20 applies broadly to several different properties whereas a quasi-judicial matter which requires disclosures
21 is something that's applied to one.
22

23 Acting Chair Fine: Thank you. And I believe (interrupted)
24

25 Jonathan Lait, Assistant Director: Yeah, we need a minute or two just to set up.
26

27 Acting Chair Fine: Sure. Should we take a quick few minutes break?
28

29 **The Commission took a break** 30

31 Acting Chair Fine: Alright, let's get back to the meeting. We are on Item 3, the Los Arboles Single-Story
32 Overlay and this is the first application since Council recently decided to waive fees for these types of
33 applications. With regard to this application we as a Commission can recommend it to Council,
34 recommend denying it, or recommend expanding or contracting the boundaries. However, tonight we're
35 just going to be discussing, asking questions, hearing from the public and staff, and we'll make the vote
36 on this on the 30th.
37

38 Amy French, Chief Planning Official: Ok, thank you for taking a break so that I can set up. I'm Amy
39 French, Chief Planning Official. I'm working with multiple single-story overlay applicants throughout town
40 so this is the first of several that you will be seeing. The purpose of a single-story overlay is to preserve
41 and maintain single family living areas of predominantly single-story character. It's required for initiation
42 that 80 percent of the homes be within the boundary be single-story. Here's a map showing the in green
43 the proposed single-story overlay for Los Arboles and next to it is Torrey Court, also a proposal, and
44 then farther over to the left is Allen Court, also that's an approved and for many years approved and
45 successful single-story overly, also an Eichler neighborhood.
46

47 Here are the boundaries of the Los Arboles proposal. The tract includes all but two of the, the single-
48 story overlay boundary includes all but two of the homes in the tract. The two homes excluded from the
49 boundary are fronting Ross Road at the top of the screen, on the corner of Ames and Ross. So the
50 neighborhood is single family single-story Eichler homes built in the 1959-1960 range. The zoning is both
51 R-1 and R-1 7,000. As I mentioned two of the homes of the original tract are excluded from the
52 boundary proposal and within the boundary 95 percent of the homes are one stories. The two-story
53 homes in the boundary have second floor additions that are compatible with the Eichler style and there
54 are no two-story applications on file with the City. They're moderate lot sizes and moderate lot sizes of
55 course allow larger first floor footprints. The reasons that the Ross Road lots were excluded were stated
56 in the application and staff thinks they're reasonable.

1 So once a single-story overlay is approved by Council the result is that new construction cannot be placed
2 on properties within the single-story boundary that are 17 feet, over 17 feet or more than one habitable
3 floor. Two-story homes are not allowed, new two-story homes, but the existing two-story homes may
4 remain. So what happens is we then call those two-story homes or homes over 17 feet non-complying
5 facilities, legal non-complying facilities and they're subject to the regulations in our non-complying
6 facilities chapter.

7
8 What the single-story overlay does not do is require design review for any one-story replacement homes.
9 We aren't reviewing for privacy or design compatibility. It's simply a building permit. We also in the
10 building permit process do not provide notices about building permits of one-story homes.

11
12 The applicants had several phases of outreach. They did discuss this at their annual block party. They
13 conducted a couple of surveys or a survey and an outreach letter and then they gathered the signatures.
14 They met all the requirements of the chapter for rezoning and we met the requirements about the
15 mailing of notices. We also exceeded our requirements by providing courtesy notices, providing some
16 detail about what happens when you become a single-story overlay. One thing that did not happen is we
17 did not successfully meet the 12 day timeframe for publication in the newspaper. It was a six day
18 publication and that's the reason why we request continuance to the 30th of September.

19
20 As noted in the report there's 80 percent support, 66 of the 83 owners. That exceeds the 70 percent
21 level by 10 percent. And there is some other data about when there are no signatures associated with an
22 address and there's some facts up here.

23
24 So the discretion of the Planning Commission as mentioned is to either accept the boundary as a position
25 and continue the hearing to the 30th to ensure that all who would like to speak to this matter can be
26 heard, another alternative is to suggest expanding or contracting the boundaries. If it's contracting the
27 boundaries there's no additional notice. If it's expanding the boundaries then additional notice to a larger
28 radius would be required. And then of course there's the deny option. In any case, continuance is the
29 option tonight. We're looking towards November or December for the Council hearing.

30
31 Acting Chair Fine: Thank you so much. Do we have any, do we have a presentation from the applicant or
32 is it via speaker cards?

33
34 Ms. French: The applicant, there are two applicants, co-applicants. One of them is not able to be here
35 tonight. I believe Sherilyn was planning to attend. I'm not sure.

36
37 Phillip Bednarz: I'm Sherri's husband.

38
39 Ms. French: Oh, got it.

40
41 Mr. Bednarz: I can just speak during the normal hearing comments.

42
43 Acting Chair Fine: Do you want to lead off for us, sir?

44
45 Mr. Bednarz: Yeah, sure.

46
47 Acting Chair Fine: Thank you.

48
49 Ms. French: I think it's 10 minutes, isn't it? Or five?

50
51 Acting Chair Fine: Ok, five minutes.

52
53 Mr. Bednarz: Alright, thanks for the opportunity to speak to the Commission. My name is Phillip Bednarz
54 and along with a number of my neighbors I am representing Los Arboles neighborhood of original Eichler
55 homes. So last fall at our annual block party our homeowners came together and shared an interest in
56 protecting what we see as an increasingly rare neighborhood. So we're here to ask you to initiate an

1 ordinance to change our zoning from R-1 to R-1(S). It is what the vast majority of our neighborhood
2 firmly wants. Protection of privacy, sorry, protection of privacy, sunlight, and views, the overall
3 neighborhood aesthetic, and the sense of community is what Los Arboles homeowners want.
4

5 Our application has the backing of more than 80 percent of homeowners. It is enthusiastically supported
6 by owners from all ages and backgrounds from our newest arrivals to those who bought from Eichler
7 himself. So thoughtfully planned Eichler neighborhoods where homes are constructed to allow nature in
8 and situated to maintain homeowner privacy were very forward thinking. Eichler communities are an
9 important part of Palo Alto's heritage and a key appeal of Palo Alto today. They are an important part of
10 the California modern architecture legacy and should be protected. So we ask for your leadership and
11 support in initiating this ordinance.
12

13 In neighborhoods like ours where residents are willing to dedicate so much of their own time to
14 protecting this legacy we ask for your support by initiating an ordinance to change our zoning from R-1 to
15 R-1(S). Again, it's what the vast majority of our neighborhood firmly wants. So thank you for your time.
16

17 Acting Chair Fine: Thank you very much. And I believe we do have speaker cards.
18

19 Acting Vice-Chair Rosenblum: Yes, we have first Bonnie Borton followed by Richard Willits.
20

21 Bonnie Borton: My name is Bonnie Borton and I'm here to ask that you grant our Los Arboles
22 neighborhood a single-story overlay protection. My late husband and I bought our Los Arboles Eichler
23 home from Al Eichler in February of either 1959 or 1960, I can't remember which. We raised our son,
24 Dan, and our daughter, Suzie, in the four bedroom single-story Eichler that I still live in today. It was
25 and still is a wonderful and vibrant neighborhood, I kid you not. Children ride bikes and residents of all
26 ages can safely walk there in the evenings and we do. Neighbors look out for each other. Many of us
27 have grandchildren and great grandchildren, not yet, just grandchild, who join the block party annually
28 that takes place in late September to play with some of our newer residents and we do have a turnover.
29 We're very much a community.
30

31 When some of the neighbors started talking about the single-story overlay I just want to be supportive. I
32 really feel it's important that our houses remain single-story. I sat in my kitchen this afternoon before I
33 came here and I looked out to the left and I could see trees and sky. I looked straight ahead and I have
34 a skylight over the front door. I can see the sky above and sometimes I see a plane go over and at night
35 it's especially nice because it's dark and you can just see the light going across the sky. It's just a, it's a
36 wonderful home and I feel it is so important that it remains single-story. We have several story homes
37 that were added on to before any of us had sense enough to understand that these homes really were
38 meant to be single-story so that we could all get the inside and the outside together.
39

40 I'd run out of space here for what I want to say. Anyway, many of us thought we already... this is
41 important. Many of us already thought we had a single-story overlay after signatures were collected in
42 1990 and I remember being one who went out and collected them so I don't know what happened, but
43 we don't have it apparently. So I beg you please to help us make this change and we thank you for your
44 time and consideration.
45

46 Acting Vice-Chair Rosenblum: So next is Richard Willits. He's our last speaker card.
47

48 Richard Willits: Good evening, my name is Richard Willits. I am with a group of folks. We've been
49 working with Amy for a long time to bring this about and we're very happy to see our first single-story
50 overlay application coming through. It's been a pleasure working with the Planning staff in general.
51 They've been very efficient and knowledgeable and straightforward in every way that we've dealt with
52 them. And so I want to thank them for all the work that they've done on this.
53

54 I also wanted to let this Commission know I'm sure you've all read some of the notes that there were a
55 number of different Council meetings that we addressed with regard to particularly with regard to what
56 was the stumbling block for many of us and was for this particular application for over a year and that is

1 the imposition of the fee. My understanding was at that time that the fee would be not only eliminated
2 for a standard single-story overlay by the referral of the process to this Commission, but also that the
3 language in the code which I'm not a lawyer, but I think it looks pretty poorly written that actually
4 imposes the fee would be struck. And I think that was a Motion of the Council. So my concern comes up
5 because in the notes for tonight's session with regard to the follow on application for Torrey Court it
6 also mentions a fee. And I just want to make it clear that this fee for this process, which is essentially a
7 political process, really throws sand in the works from the standpoint of the people who are trying to get
8 it done.
9

10 Torrey Court I happen to know because I was involved with it was a group of people that within a week
11 had basically 80% of their signatures ready. They were, when they heard about it they said yes, we've
12 got to do this. They've got no Eichler's that have been changed. They did have an unusual situation that
13 they had a number of I would call them two stories as built by Joe Eichler. If you looks at the lines of
14 sight of privacy in those houses they were planned so that they do not disturb the other houses and what
15 this neighborhood really wanted was for everything to remain the way it is which is the way that they've
16 kept it and that's what they want. My understanding is that they're going through the process of trying
17 to figure out how to go now that they're not firmly and fully attached to the Los Arboles application and
18 therefore they don't meet the less than how do we put this? They have more than 20 percent of the
19 houses are already two stories, but they my feeling is they should not be considered not complying
20 because they were built that way. But in any case my understanding from the meeting from the two
21 Motions that were passed at the City Council meeting was that that law that verbiage in the law that said
22 that a fee could be applied for this process was to be struck and that I would hope that would be the
23 case for all single-story overlays that go forward. And thank you for your support of this one.
24

25 Acting Chair Fine: Thank you. I believe that's it from our public speakers. Thank you so much. Sure.
26

27 Ms. French: Sure, yes let me please address that last comment about the fees. As you will see in our
28 next item we are including that in our administrative or policy changes. It's actually considered a new
29 policy, but it was one that the Council espoused during this hearing when they were discussing the fee.
30 So that will be removed and it is not applicable to the Torrey Court proposal. We have not charged
31 them a fee or told them that it's a hang up for them. The hang up as you rightly noted was that they do
32 have nine homes and that kicks them to 30 percent. And so some of those nonconforming would be
33 nonconforming homes, homeowners are concerned about that status.
34

35 Acting Chair Fine: Thank you so much. Let's open it up to questions, Commissioner Gardias.
36

37 Commissioner Gardias: Thank you. Thank you, Mr. Chairman. So I'd like just to get more clarification on
38 the options that we have tonight. If you could just put them on the board specifically that's district that's
39 next to, let's see if I can read this, Torrey Court.
40

41 Ms. French: Mmmm hmmm.
42

43 Commissioner Gardias: That's adjusted to, adjacent to this proposed addition. What are our options on
44 inclusion of this one in today's vote if we're going to approve this overlay?
45

46 Ms. French: What your option would be would be to suggest that the boundary be expanded to, for Los
47 Arboles to include the Torrey Court and therefore we would have to broaden our notice and modify the
48 project description which is simply the Los Arboles to be a broader neighborhood.
49

50 Commissioner Gardias: And we would have to continue through (interrupted)
51

52 Ms. French: Yes.
53

54 Commissioner Gardias: Through September 30th, I don't know if there is anybody from that neighborhood
55 tonight? No? Ok so we were only talking about this one. Thank you.
56

1 Acting Chair Fine: Commissioner Michael.

2
3 Commissioner Michael: I want to thank the neighbors for coming out and speaking about the qualities of
4 the neighborhood that you love and want to preserve. To the extent that there appears to be 66 of the
5 83 homes in support of the proposal is there any questions that should be asked regarding the numbers?
6 The tally, is this in any way something that we should analyze or verify?
7

8 Ms. French: My impression reading the materials that were submitted was that the outreach statements
9 that were made on that petition were sufficient and the signatures that appear there when I compared
10 them to the file of addresses, owners it seems that those people are the same (interrupted)

11
12 Commissioner Michael: Ok.

13
14 Ms. French: As far as that goes. Did I get to the question?

15
16 Commissioner Michael: Well pretty much. So since you didn't get 83 out of 83 and 17 people weren't
17 counted in the 66 is anybody in the 17 here tonight that has a different point of view? It appears not so
18 that may be worthy of noting.
19

20 So it, I guess those are my only questions for the movement. Oh, on the boundary if, if you drew a
21 different boundary would that affect the 70 percent support? If you or is there a large group of people
22 immediately outside the proposed boundary who would like not to have this restriction?
23

24 Ms. French: I will address that, through the Chair, the homes on the screen that are fronting Ross Road
25 that are within the tract above the red line the one to the left is a two-story stucco home and so that
26 would be then one more point, percentage point. So instead of four out of 83 homes it would be 5 out of
27 85 homes as far as number, percentages of two-story homes. I believe they still meet the entry
28 requirement of 20 homes so I mean 20, 20 percent, maximum 20 percent two-story homes. The home
29 to the right is an Eichler one-story so I'm not sure if a negative signature there how that would tip the
30 balance. I don't think it would though.
31

32 Acting Chair Fine: Any other questions? Acting Vice-Chair.

33
34 Acting Vice-Chair Rosenblum: I think given our purview this seems like a no brainer to me, which is the
35 boundary seems sufficient. There's a large enough number of people to qualify. They've well exceeded
36 even if the people that were not found all oppose they're still above the limit. There was an error in not
37 providing sufficient public notice, but I suppose we'll get back to that at the right time and hopefully this
38 will be fast. So I'd just say we have lots of items we go round and round on for hours. I think this is one
39 where I don't know if we all want to make a statement or we could make a Motion to say go to the next,
40 but I don't see any issues here.
41

42 Acting Chair Fine: Commissioner Alcheck.

43
44 Commissioner Alcheck: I'm just going to follow the lead here and make questions and comments sort of
45 together if that's alright? So just for clarity here does the staff feel that this will because I read what you
46 wrote and I heard what you said; this is not necessary, this isn't really preserving Eichler homes, right?
47

48 Ms. French: That's correct. It's not necessarily preserving, yes. That is a true statement. Remodels can
49 happen to the existing homes. The existing homes could be torn down and replacement one-story
50 homes could be constructed after a single-story overlay is approved.
51

52 Commissioner Alcheck: And three of the four two-story homes are Eichler two-story homes? Is that
53 correct?
54

1 Ms. French: They're Eichler one-story homes with second floor compatible Eichler additions, so in the
2 Seventies so those additions came at a later date. Whether Eichler designed them or not they're small
3 additions.
4

5 Commissioner Alcheck: Ok well, so let me just I'll make my comment now. I completely understand the
6 love affair. I myself am partial to midcentury modern architecture and I've been in some exceptionally
7 well maintained Eichler homes in Palo Alto and also in Sunnyvale, but I just I want to highlight but that
8 said this doesn't preserve your Eichler home or your neighbor's Eichler home. Only a neighbor with the
9 interest, motivation, and passion to maintain their Eichler home will maintain their Eichler home and I
10 think that's an important consideration here.
11

12 I think that you're out of the three, out of the four homes that are two stories I imagine a scenario where
13 their home burns down in some awful event and they can't rebuild exactly what they had before with
14 their insurance premium or coverage. And that seems sort of unjust for that individual so I'm not sure
15 how we could remedy that situation. I don't, I don't love that portion of this.
16

17 I also am not really persuaded I just hope for the record, for general discussion I'm not really persuaded
18 by this notion that two-story homes that comply with our single family zoning code in some ways ruin
19 daylight or interaction with nature or affect our interaction with the urban canopy or our visuals in
20 general because our process for single family homes that are two stories is really deliberate. There's an
21 individual review process for any proposed two-story home in the City in which they evaluate context and
22 setback and what do you call it when the second story is set even farther back? So there's a real effort
23 to preserve that sensibility that sense of openness and light and I just don't, I don't think I think if we
24 accept the premise that somehow single family preserves these things and we're also saying at the same
25 time that our two-story neighborhoods are somehow destroying that and I don't love that.
26

27 That said I think it does enhance privacy and I also think this is exactly the sort of action that my vision
28 of local government supports. I mean this is a community that is essentially voted in unison according to
29 the parameters we've set up. They've met that standard and I think they're entirely entitled to pursue
30 this application and I would support their vision for their neighborhood because that's what I think, that's
31 exactly what I think local government should be doing. I'm just clarifying because I know I see the
32 Eichler preservation movement here and I don't know if this accomplishes all of your goals.
33

34 And then I'd also like to throw out there this idea, this notion because this will have a significant impact.
35 I know we've done this in other areas of the City, but not while I was on Commission. I wonder if this is
36 something we should consider or recommend considering doing under a time constraint; for example,
37 limiting second story development for five or seven years, revisiting the topic at that date to see if the
38 same level of consensus exists. Again I don't want to ruffle the community's feathers, but I'm just our
39 community is on the precipice of a dramatic change just as the entire country is. There's going to be a
40 tremendous likely to be tremendous change in the ownership profile of residences in California as our
41 population grows and continues to change and this is a very permanent affect. And so I sort of wonder if
42 there should be some automatic opportunity to revisit it, check with the community to see if they still feel
43 that same way or I don't know. I'm just throwing that out there, but I would support this process. I just
44 want to clarify I don't know if what you're asking us tonight is to expand the boundary because you've
45 gotten that request and if in that case if you haven't that's not how I would, I would just move this along
46 the way that it's already been presented and then I guess review it on the second go round. That's it.
47

48 Ms. French: Through the Chair, yes, we are recommending moving forward as has been requested by the
49 Los Arboles applicant. To the other points I would just say a basement is a possibility for a new one-
50 story home (interrupted)
51

52 Commissioner Alcheck: This is non-flood zone?
53

54 Ms. French: Not a flood zone. And the other thing is if there was a desire by 70 percent of those in the
55 single-story boundary five years from now, seven years from now, those 70 percent could come forward
56 with a proposal to undo the single-story overlay. So that's the out if you will.

1
2 Commissioner Alcheck: Ok.

3
4 Acting Chair Fine: Any other questions?

5
6 Commissioner Michael: Amy if I could just follow up one of the things that I've always wondered about is
7 since the requirement to create the single-story overlay is 70 percent why is the requirement to move
8 back to the unrestricted R-1 not 30 percent?
9

10 Ms. French: Well, you've got me there. I don't know the history on why that's the case. That is what the
11 code says.
12

13 Commissioner Michael: Ok, because it seems to me that well anyway, just it's not for us to answer
14 tonight, but just to maybe create a record that we're thinking if that's the case. When I was growing up
15 here one of my good friends, very large family I think six or maybe seven kids, lost track we were lived in
16 the Crescent Park neighborhood at that time and they had a large house to a lot of kids. And when the
17 kids grew up and many of them moved away and actually the father passed away so the widow, Daryl
18 Carrie, moved to Torreya Court. And she's an absolutely wonderful gracious lady and she loved living in
19 Torreya Court, but she moved there because her family size had contracted naturally as the kids grew up.
20 And it would not have been possible for the Carrie family to live in Torreya Court with their full family, but
21 only after they got smaller. So one of the things I just wanted to be sensitive to is that and I think that
22 the overwhelming support of the 66-78 homeowners will compel us to go forward and be successful so
23 that's a maybe a wonderful thing, but it I think it inadvertently has the effect of excluding large families
24 in the sense of the Carries moved there when they had a smaller family, couldn't have fit there if the
25 whole family and a 2,600 sf house was going to be the largest in this neighborhood. So that exclusionary
26 quality is probably an unintended consequence.
27

28 Also the census data for Palo Alto suggests that there's demographic changes in who lives in Palo Alto
29 from when Eichler was building and now some of the groups that are more have larger percentages in
30 Palo Alto tend to favor multigenerational households. And you're also probably inadvertently excluding
31 multigenerational households from living in your neighborhood. That's probably ok.
32

33 And the thing that always baffles me and again I don't know that this would be a positive opportunity for
34 anybody who lives in the proposed area is that by so enthusiastically supporting a single-story overlay in
35 some ways its contrary to the economic self-interest which when you cap potential square footage
36 because the construction cost of additional square footage is much less than the value in Palo Alto. So
37 let's say you had 1,000 square feet second story it would cost you \$500 a square feet, sf to build, but it's
38 worth \$1,000 a sf to a buyer you just lopped off a half a million dollars off your home value. So I take
39 that as the really very enthusiastic sincerity of the neighborhood in wanting to constrain your economic
40 value. So it looks like you will triumph and these are just questions that I've had about the wisdom of
41 the statutory scheme and I think that the architectural values, the neighborhood values, the nature, the
42 indoor/outdoor living, all of this stuff, the privacy, these are wonderful things, but there are some major
43 factors, changes imminent in Palo Alto as elsewhere and some of these things are maybe not as simple
44 as they first appear.
45

46 Acting Chair Fine: Thank you. I think I've just got a few comments and then I think we can move on to
47 the next item. I really appreciate you all coming out. It's really good to hear from all of you and as
48 Commissioner Alcheck said I think it is a really nice example of neighbors coming together and being
49 unanimous on something. It's been pretty rare nowadays so that's really great.
50

51 A few questions and then just one comment, so one question is about expanding the boundary; you
52 mentioned additional notifications. Just hypothetically what if we expanded the boundary to double it
53 and some way the vote didn't carry. I mean would there have to be a new petitioning? How does that
54 work?
55

1 Ms. French: Right, I guess doubling if that's a, that's a formula I mean when you talk about maybe
2 including Torrey Court that's kind of more of a specific so I'm just going to use that. So you would need
3 to notice the Torrey Court neighborhood. Likely they already received notice that it was the Los Arboles
4 tract that was going forward. Then we would go 600 feet from that neighborhood so it would go across
5 Middlefield and over and around and so include more folks in the radius. And we would revise the
6 project description so that's the first part of that (interrupted)
7

8 Acting Chair Fine: But would they I mean so let's say we included Torrey Court and went all the way up
9 to Ross and maybe even across Loma Verde. I know there's some second story homes there. Would
10 there be a new petition required if (interrupted)
11

12 Ms. French: Yes, yes there would be.
13

14 Acting Chair Fine: Ok, so we'd start from scratch?
15

16 Ms. French: So basically yes, we do have the petition for Torrey Court already submitted. It was just
17 the fact that there were too many two-story homes that they couldn't be on their own a single-story
18 overlay as a standard single-story overlay. But yes, if we expanded the single-story overlay boundary
19 associated with Los Arboles I'm not sure I mean if you wanted to go all the way up to a street let's say it
20 just isn't as (interrupted)
21

22 Acting Chair Fine: Right, I just wanted to kind of figure out the process and the operations for noticing
23 and the re-petitioning. Great, thank you.
24

25 Ms. French: Yes, we would have to have them sign (interrupted)
26

27 Acting Chair Fine: And then kind of to build on Commissioner Michael's comment about changing families
28 and removing building potential and the value that you have, land is very valuable in Palo Alto. There's
29 pretty much nowhere else to build so the logical thing is to build up actually, right? And so this is actually
30 restricting that. And I think it would be helpful for staff, for the Council, and for future commissions to in
31 some way record what building potential has been taken off the market when we do something like this.
32 Maybe it's 80 households, 1,000 feet per household, that's 80,000 sf of building space. I've heard in a lot
33 of different forums here and the Citizen's Advisory Committee from Council that like we really need to
34 understand what is our building potential, what is our capacity, what we've already built, this is a very
35 clear and concise area where we are going to essentially be rezoning a spot and essentially taking out
36 building potential. I think it would be helpful to measure that with each of these applications. I think
37 that's it for my comments, but it sounds like there's one more.
38

39 Commissioner Alcheck: I want to clarify a few things. You said lot sizes varied from 6700 to 10,000. So
40 let's let me I just want to clarify a few things. So a 10,000 square foot lot in Palo Alto you're allowable
41 floor area is in the range of 3,800 sf. That means the largest home you can build on a 10,000 square
42 foot lot is 3,800 sf, doesn't matter if you stack it two stories or one-story. So I think it's dangerous to
43 suggest that any one of these home owners has lost any buildable square footage. What the result is
44 that they will have less potential landscaping, but not that they'll have a smaller home.
45

46 And I don't not to just respond to you, but I think there's a vast majority Baby Boomers have taken over
47 the sixties, seventies, and eighties and by and large they all like one-story homes. And so the notion that
48 this would be unappealing to maybe multigenerational families I also think is a dangerous assumption
49 because you can build an almost 4,000 square foot home which is your max. There is no scenario where
50 you can build more than that as one-story an example I'm giving you and that example works its way
51 down to smaller lots. And so I think the additional I'm just going to throw this out there, I don't know if
52 everybody realizes it, but the fact that these are not flood zone properties let's assume you're maxed out
53 at 4,000 sf if you build a 2,000 square foot first story and a 2,000 square foot second story the maximum
54 basement you can build is based on the footprint of your first story, which means you could theoretically
55 build a basement that's 2,000 sf which would then put you in the 6,000 square foot property range. It's
56 enormous. If you build a 4,000 square foot first floor you can in theory build a 4,000 square foot

1 basement, which puts you in the 8,000 square foot range. Now not all square feet are equal in value.
2 Basements are not typically the same value as a first story, but I just want to suggest that just because
3 we're limiting the development to a single-story does not mean that we're limiting value. And I mention
4 that because I live in a neighborhood where there's a lot of construction going on and a lot of the homes
5 are one-story and they're huge and those are I think some of these homes are spec homes and I think
6 those decisions are based on this idea that right now a one-story home is appealing to a broader market
7 because of the fact that it's appealing to multi-generational users. So I just I want to suggest that.
8

9 I also want to say one other thing which is there's no incentive to increase the boundary. Number one it
10 might dilute the voting strength of this community and number two their decision does not affect their
11 neighbor, neighboring streets. Unlike allow me for a minute the example of the overnight parking ban in
12 Crescent Park, which when one block decides what to do with their street parking the parkers move to
13 the next block and that decision did affect the individuals who didn't get to vote on whether that parking
14 restriction would've applied to them. So in that case I would have supported broadening the community
15 vote. In this case I think expanding it would actually harm these, harm the result because the goal here
16 is for them to determine their own future and so I wouldn't support expanding it specifically for that
17 reason.
18

19 And then my last question actually for staff is how small can the applicant be? Can it be like one street?
20 Is there, do we have a limit? So if for example the street next door decided hey, we really like what's
21 going on over there, it's encouraging and preserving the Eichler homes and we want to jump in on that
22 can they do it as a group of four or is there a minimum size? I'm not familiar with that.
23

24 Ms. French: There is no minimum size. I just put up the on the screen the Allen Court which is 20
25 something so that's a fairly small distinct neighborhood, but I don't think down the road if there was
26 another if there's a desire to expand this single-story overlay to include additional homes that that could
27 be processed just like this one is to say...
28

29 Commissioner Alcheck: Ok, just wanted to check. So in theory like three homes could to it for their three
30 homes?
31

32 Ms. French: I think that it has to be logical enough with logical boundaries such as a tract or streets or...
33

34 Commissioner Alcheck: Ok, got it.
35

36 Ms. French: We have had a situation in the past where there was a portion of a neighborhood and it was
37 odd. It was they had kind of drawn it around the support level and I don't think we're after that.
38

39 Commissioner Alcheck: Ok.
40

41 Ms. French: To make the numbers we really want it to be a logical defined by waterways or streets or
42 tracts or something that makes sense.
43

44 Commissioner Alcheck: Ok.
45

46 Acting Chair Fine: Seems like we have one last comment. Let's try to wrap this up and move into the
47 next items.
48

49 Commissioner Downing: Sure, so thank you everyone for coming out. I just really appreciate seeing the
50 community here. There's one other comment that I just wanted to make in terms of just making sure
51 that there's a full view of the implications of this action. So the one other comment I wanted to make to
52 that is if you incentivize first floor and people want to build out their first floor and they want them to be
53 bigger you're taking over more of your lot area, because you're going to expand the house horizontally
54 rather than vertically. The one issue that you might find by doing this is that you may not have all that
55 much space left if you ever wanted to add a secondary dwelling unit, if you ever wanted to add a space
56 for a caretaker or an elderly parent or maybe you want to move in you want to let your kids get the main

1 house. You may not have the ability in doing that because you the house itself needs to comply with
2 setbacks, the secondary unit needs to comply with setbacks, and you also need to find two extra parking
3 spaces on your property. So just consider that. You're all spry right now, but you may want other things
4 in the future. So just think about that so long as you have that in mind, you're happy with the tradeoffs
5 you're making, by all means.

6
7 Acting Chair Fine: Well, thank you all for showing up unfortunately we can't vote on this tonight, but it
8 will be back on September 30th.

9
10 Ms. French: You need to make a Motion.

11
12 Mr. Lait: You need to make a Motion to continue to September 30th.

13
14 MOTION, SECOND, VOTE

15
16 Acting Chair Fine: I move to continue this item to September 30th, second by Commissioner Michael.
17 Should we take a vote? All in favor? Passes unanimously. Thank you so much.

18
19 MOTION PASSED (6-0-1, Chair Tanaka absent)

20
21 **Commission Action:** Commission heard public testimony, provided comments. Motion by Acting
22 Chair Fine, seconded by Commissioner Michael to continue this item to meeting of September 30,
23 2015. Motion passed unanimously (6-0-1, Chair Tanaka absent)

- 24
25 4. **Interim Retail Ordinance:** The Planning and Transportation Commission will consider a
26 recommendation to the City Council for adoption of an Interim Ordinance Limiting Conversion of
27 Ground Floor Retail and "Retail Like" Uses to Other Uses Citywide. The proposed ordinance falls
28 under the California Environmental Quality Act (CEQA) exemption found in Title 14 California Code of
29 Regulations Section 15061(b)(3) because it is designed to preserve the status quo. For more
30 information contact Jonathan Lait at jonathan.lait@cityofpaloalto.org **This item is continued to**
31 **September 30, 2015**

32
33 **Study Session**

- 34 5. **Zoning Code "Omnibus":** Study session to discuss First Annual "Omnibus" ordinance of changes to
35 the Zoning Code and related Municipal Code chapters. For more information, contact Amy French at
36 Amy.french@cityofpaloalto.org

37
38 Acting Chair Fine: Let's do it? Ok. Item Number 5, anybody need a break.

39
40 Amy French, Chief Planning Official: At least I don't have to plug anything in this time.

41
42 Acting Chair Fine: Ok, let's just do it. So our next item is Item Number 5, Zoning Code Omnibus, which is
43 a study session, essentially staff is bringing us an omnibus of ordinance changes to the Zoning Code or
44 the Municipal Code chapters if I understood it some of these are about issues of interpretation such as
45 what was an average, cleaning up a few new policies, and then also fixing some references and typos.
46 Amy are you presenting this one?

47
48 Ms. French: Yes, I am. As you may note on the first slide here the word omnibus has fallen off. We are
49 now calling it (interrupted)

50
51 Acting Chair Fine: Oh.

52
53 Ms. French: That's all right; we did put an ad in the paper calling it that. This story there. So this is now
54 we're referring to this as the first annual Planning Code Update. I say Planning Code because it's chapter
55 Title 18 which is actually Zoning and we also are bringing forward Title 16 Building Codes where they

1 intersect with Planning. Oops, what happened? That's the last slide. You'll see I still have the image of
2 a bus.

3
4 So wanted to give a little bit of a background we've been collecting some suggestions from Council
5 Members and staff. We're operating under a tier one, tier two format. We're phasing. With the tier one
6 items coming forward again to you this year, two tier we'll discuss later on. We are targeting a Policy
7 and Services meeting on October 13th so leading up to that we're hoping to come back to you, targeting
8 coming back to you on September 30th with an actual ordinance annotated and a matrix that we've been
9 working on to kind of describe why we're doing some of these changes, what we're hoping to fix. And
10 then we have an option to come back again in October after we've done a little bit more massaging and
11 then hoping to get to the Council by the end of the year.

12
13 So we have some goals. We would like to improve the entitlement zoning compliance processes, the flex
14 city codes, city policies and practices. We would like to make noncontroversial changes this year so
15 many of these are typos, references to chapters that are no longer in that location and [unintelligible]
16 different chapter. We want to improve clarity and other administrative changes. And maybe anticipate
17 that we may need to remove some controversial items if we do get some pushback from the public or
18 [unintelligible]. So we want to recalibrate code sections, look at our long time interpretations to support
19 customer service, [unintelligible] code sections that we publish online. We do want to address the input
20 we've received from Council Members, have those conversations, and then we would like to explain some
21 of our way that we're doing this so we would like to call these different categories again administrative,
22 clarification, interpretation, and new policy. I will give you some examples of those tonight.

23
24 Some administrative change as I mentioned typos, correcting chapter section references, and eliminating
25 duplications. We have some clean ups. It's silly the zoning index table of contents doesn't include the
26 hospital district, which is a fairly new chapter. Other items are on the screen here, clean up items really,
27 discrepancies in the code that compete with each other.

28
29 Some clarifications where we have in mind is again to those building codes that intersect with Planning,
30 signs being one of them. The first Chief Building Official, well the Planning Director and designee are
31 engaged in the process of reviewing signs, taking them to the Architectural Review Board (ARB). We
32 also have some, some clarifications to how we look at wall signs, projecting signs, and so we think just
33 strategically or surgically going in touching those two areas of the sign code will be helpful to us. We do
34 process quite a few sign exceptions to get around the awkwardness of the code.

35
36 The fences also the first Chief Building Official and new building permits are issued for standard single
37 family residential fences. When we do have non-residential or multi-family projects those generally are
38 looked at by the ARB and generally those are also six feet. Most of those don't require building permits.

39
40 Here's just a list of interpretation items that we've identified. There's a number of definitions. Contextual
41 garage and carport placement, basements under footprints, the home improvement exception is what
42 that stands for, eligibility which is set in the code at 75 percent of the walls retained as exterior walls not
43 being subsumed into an addition in order to be eligible for those additional 100 square feet (sf) or what
44 have you, preserving a nonconforming feature perhaps. In the multi-family zones we want to clarify that
45 there is no minimum density set forth in the code. There's generally a range there. There's the seismic
46 bonus concern and that's basically Downtown where we have the ability to rehab a building and then
47 there's a bonus to be had that can either be used onsite or transferred off the site, purchased by an
48 interested buyer. We've had concerns that buildings have been demolished and then bonuses used
49 onsite rather than the intent perhaps of rehabbing the seismic building in place and adding to it or
50 transferring off. There's the grandfathered facility and this came up during the 261 Hamilton project
51 across the street, University Arts, where the concern about a grandfathered facility not being able to
52 change its footprint. In the case of that project it was going from the basement to above grade. We
53 think there's a good case to be made for allowing some modifications above grade to above grade to
54 increase pedestrian friendliness, articulation, these kinds of things, massing, to approve a building and its
55 interaction with the pedestrians.

1 Here's just an example of an interpretation [unintelligible] interpretation is that we could note that a
2 breakroom is basically not a cafeteria. So this is outside the Downtown. People have said this
3 breakroom is helping reduce trips and so we're not going to count it as floor area, we're not going to park
4 it. So that's an idea that has some legs and it does refer to dry cleaners, maybe onsite laundry facilities
5 is more apt in today's laundry world.
6

7 Some new policy items have a list here so one of those is interpretations and use classifications. This
8 would basically allow in the code the Director to make qualitative decisions regarding what type of uses
9 since it's not listed, but it's like these and therefore as far as use classifications as far as interpretations
10 gee, what is a contextual setback in this case and would be an example. Those could be set forth the
11 arithmetic mean or whatever in a formal written interpretation that could be basically appealed up
12 through Planning Commission and Council. Gives people a due process over a determination.
13

14 New definitions so again, just a couple of examples; back to this concept of amenities for employees on
15 site. What are we after here? And then substantial remodel, we get into this what percentage are we
16 retaining this kind of thing and how can we approve that in the code? Revising the gross foot area
17 inclusions and exclusions both for commercial and residential, there are some areas that could be
18 improved there. Came up tonight, delete the fee for single-story overlays. That's in there. Noise
19 equipment is another area where we feel that that could be improved. There was an ordinance passed
20 to be quite restrictive these days and quiet equipment is to be had and so we want to look at that, could
21 we add some flexibility? Large second floor decks that are not having to go through the IR process that
22 might cause privacy concerns we have that on the list. Residential density bonus I'm just going to go
23 through these little quicker. Some of this relates to the Housing Element, extending the term from 30 to
24 55 years, office use restrictions, there's site and design review, there's quite a few here that we're going
25 to be taking a look at. On the ARB findings we just met with the ARB on September 3rd and had a good
26 conversation there about findings. On California Environmental Quality Act (CEQA) provisions we do look
27 forward to having a code chapter on CEQA provisions, we could do a curved path.
28

29 And then I'll just focus on the appeals and hearing requests. I visited with the Policy and Services
30 Commission, Committee of the Council a week or so ago and there was a discussion about reducing the
31 votes from four votes to three votes for individual reviews and [unproven] exception appeals to be
32 consistent with the other vote of three threshold for other types of appeals such as ARB. And then also
33 looking at reducing the options there are three options now. It gets a little confusing so if they pull it,
34 schedule a hearing, and then looking at reducing the appeal fee when there's support, verifiable support.
35 Here's another example process items we're looking to increase from 30 days to 45 days to get to reports
36 prepared and reviewed and 30 days is a little fast these days for us given the volume of work and also
37 the 5 day turnaround on decisions [unintelligible] days.
38

39 So here's the process. Again we did visit with ARB. Tonight we're talking a bit about this. We'd love to
40 hear some feedback on your initial thoughts and we're visiting with you again on September 30th. And
41 Jonathan did you want to expand on that?
42

43 Jonathan Lait, Assistant Director: Yes, so just a, so there's really not a whole lot here for the Commission
44 to react to. We're not presenting any ordinance for you this is really just a head's up that something's
45 coming. And the list that we presented there's some, there's some of these items that were presented to
46 you there's greater certainty in our mind that [unintelligible] moving forward than others and so this is I
47 would qualify this as a tentative list that we're working on that we're going to be presenting to you.
48 We're still we're working on the details. And again if something the intent here is not to create any
49 substantial new policy, but introduce to policy where the code is doesn't provide enough guidance or to
50 address a recurring problem we're seeing, not to do a whole sea change of policy and if we do present
51 some code amendments where it is generating a lot of conversation or concern we're just going to simply
52 put that one aside, it goes off the list, we'll come back to it next year, and the idea is to move the ones
53 forward that are pretty straightforward and not controversial.
54

1 Acting Chair Fine: Thank you so much. I don't see any speakers from the public so let's turn it over to
2 the Commission questions and comments. I think we can do this quickly, Commissioner Gardias I think
3 you're the first up.
4

5 Commissioner Gardias: Thank you very much. It's a simple question, from the sequence perspective I
6 mean I understand cleanup is a simple thing to do, but knowing that we will be just going through the
7 planning process there may be more changes. They will result of course with changes in the code
8 ultimately I presume and then we're going to get to the cleanup mode again. So I'm just asking why we
9 are doing this when we will be doing this again.
10

11 Mr. Lait: I don't think anything that we're doing here would have a, it doesn't rise to that same level of
12 Comp Plan policy conflict or concern. What we're really doing here is trying to improve clarity to get rid
13 of outmoded or inaccurate references in the code. Where we are introducing ideas of new policy it's I'll
14 just one that Amy had highlighted was the idea of substantial remodels. So we have a number of single
15 family homes that our codes do not provide sufficient guidance's to how much remodeling can take place
16 before it's considered new construction. And all we want and we have a practice that we've been using
17 and what we want to do is codify that practice. So when we talk about new policy that's what we're
18 really talking about is codifying our practice as opposed to now you can do something more than couldn't
19 have done before.
20

21 Commissioner Gardias: Right. I totally understand this. But anyway I was just giving you the priorities.
22 I mean knowing that if we're going to work on the Comp Plan there will be a number of other
23 modifications to the code and I'm assume that there's just we'll just resolve many other changes so just
24 from the perspective of just loading us with this, with this item although I know that this will be maybe
25 clean from your perspective to pass, because those are clean up items. But if we're going to do this
26 again in a year and a half, and this has to be thought through, otherwise it leads to something else.
27 That's the (interrupted)
28

29 Mr. Lait: Well and I (interrupted)
30

31 Commissioner Gardias: That's the question.
32

33 Mr. Lait: And I would say that the value is in the daily interactions that staff has with the homeowners,
34 architects, business community so that we can provide more certainty and clarity as to how the existing
35 codes are today or how they ought to be and how that might apply to their particular issue or project. I
36 mean the Comprehensive Plan is going to continue for a bit longer and then once that does get adopted
37 there's the implementation phase which does result in code changes. So we're looking at that, that
38 horizon is a little more longer term than where we are today and we're dealing with this on a daily basis
39 the issues that we're talking about. So I think it just creates a better sense of predictability and
40 accountability that people will feel more comfortable with.
41

42 Ms. French: And I would just add to that that it's the first annual omnibus so we're anticipating not a year
43 and a half, but (interrupted)
44

45 Commissioner Gardias: It's going to be ambitious.
46

47 Ms. French: It may be less than a year (interrupted)
48

49 Mr. Lait: It's ambitious, but I think it's worthwhile because the Zoning Code hasn't been updated in a
50 while and we're not looking to do a full scale update. I think those efforts are challenging so we're going
51 to see what we can do to make some progress while we're able to do so.
52

53 Acting Chair Fine: Commissioner, Acting Vice-Chair Rosenblum.
54

55 Acting Vice-Chair Rosenblum: I think this is a good idea. I think it's a good idea to do it regularly so it
56 makes sense. It'll reduce your burden and make things clearer.

1
2 Two quick things; in the area of typos and obvious the position of Chief Builder has been eliminated since
3 1880 and now it's called something else does that have to go in front of us or Council or anyone? Can't
4 that just be changed so I would love for us to spend time on probably the balancing test on whether or
5 not the other things being changed are rise to the level of probably that needs to be part of the Comp
6 Plan it's a bigger thing versus this is obvious we've been doing it, this just gets codified. That to me is a
7 good discussion. A less good discussion is typo by typo do we change this word? This word somehow
8 got omitted and I would think that this is a question for the lawyers I guess that staff has the ability to fix
9 obvious typos.

10
11 Cara Silver, Senior Assistant City Attorney: I am going to have to look into that. Cara Silver, Senior
12 Assistant City Attorney. So there is some flexibility on the part of staff to work with our Municipal Code
13 Codifier to fix clear typographical types of issues. However, changing titles from Planning Director to
14 Chief Building Official that is really a giving something else an additional statutory duty so that type of
15 change would not be entertained by the Codifier. So we'll certainly use our judgement. The typos that
16 we're suggesting are going to be in the areas where we think we don't have the flexibility to do that at a
17 staff level and we will group them I don't think there needs to be a large discussion about those things
18 and it would be great if you all could just focus your attention on the non-typographical issues.

19
20 Acting Vice-Chair Rosenblum: And so then my second thing is a request. So when this in the schedule of
21 ruling this out comes back there's some line that you cross over that line and it's a big deal and below
22 that line it's not such a big deal and we should just do it as part of the omnibus or part of the annual
23 review process. So above, over the line I would say are things like parking minimums. That's a
24 controversial item. I have a viewpoint on it and it probably will be addressed in the Comp Plan. And
25 there are other items that seem less controversial. I think it would be really is the list of all items
26 considered and where you drew the line. So this is approximately where people are fairly accepting and
27 these are things we expect will be part of the Comp Plan because one of the things I could see us is say
28 well, why don't we consider this or shouldn't this be in? I think that would be a really helpful thing
29 instead of I know that you're just giving examples of a couple of things that would be in or out or in in
30 this case, but I think it would be really helpful for all of us to have a superset and then some idea of the
31 things you're asking us to consider and then some things that will likely be part of the Comp Plan
32 discussion. So that's my request in terms of moving this forward.

33
34 Mr. Lait: Thank you for that comment. And that's actually what we had intended to do although in your
35 analogy our above the line are, is the easy stuff and the below the line's is [unintelligible] so we call that
36 tier one and tier two and so what Amy presented tonight was sort of the tier one and some of those
37 maybe fall down into tier two, but it is our intent to present that complete list. And you'll see something
38 for instance like we heard a lot about single or about second units tonight. We think there's a policy
39 discussion that needs to take place with respect to second units, but that's going to be more controversial
40 then so that's when you'll see that kind of tiered principle.

41
42 Acting Vice-Chair Rosenblum: So as personal input if you're looking for feedback about whether or not
43 you've calibrated tier one and tier two correctly there's nothing on the list that gave me any alarms. It
44 looks like about the right level of stuff. It's a, it seems clarifying, fairly noncontroversial, but frequent
45 enough to come up that it's worth our while to actually fix.

46
47 Acting Chair Fine: Commissioner Alcheck.

48
49 Commissioner Alcheck: I had a quick question. What are DU's? You refer to DU's, minimum DU's.

50
51 Ms. French: Dwelling Units (DU).

52
53 Commissioner Alcheck: Does the so this list tonight was long. The items that are under new policy items
54 would you consider those tier two?
55

1 Ms. French: No. Everything in the PowerPoint tonight is in our tier one list at the moment, but we
2 welcome your (interrupted)

3
4 Commissioner Alcheck: Alright, I mean I don't want to get too specific tonight. I don't think that's what
5 you're looking for and I say that to mean that I don't really want to debate the items or why they are
6 complex, but I would suggest that some of the new policy items I would like to have an opportunity to
7 discuss in greater length. Minimum DU's in new mixed-use units for example stuck out.

8
9 I'm not exactly familiar with the office use restrictions loophole is. Loopholes in general I think
10 sometimes using the term loophole suggests that the way staff is interpreting something is different or I
11 should say it like this: loophole suggests that the way something is possible now wasn't intentional and I
12 don't love that because if it wasn't intentional it depends if it was a misspelling that's one thing, but I
13 think sometimes we don't always I think other I think different people can look at some of the same thing
14 and think you know what, there are reasons why this should be interpreted in this way because it lends
15 itself to these opportunities. There are reasons why it should be interpreted this way. It lends itself to
16 those opportunities and you close a loophole someone might feel like you've made a decision that
17 opportunity wasn't intentional and so I'm just I don't know what the office use restrictions loophole is. It
18 might be really like innocuous, but some of these new policy items I think would I don't know I would
19 suggest maybe they are tier two. Maybe they deserve a little bit more interpretation.

20
21 Look in general I love the idea of us making this easier so this notion of noise equipment the only one
22 that stuck out to me is I mean there are some, delete the fee, but the noise equipment low density R-1
23 zones that's great because that suggests that the concerns that we had are being improved by
24 technology maybe we should be a little less strict, more lenient on the placement of noise producing
25 equipment. I like that because our community's zoning is really specific like I have a little bit of
26 experience with building codes and we have a book that is I've never met a contractor or builder that
27 didn't say wow, Palo Alto's really got the book on books. So in all seriousness it's like this thick. It's
28 really specific and I just like I like the idea of us evaluating to make sure that well all the things that
29 we're requiring are still relevant. So in that regard I'm happy to see that in the new policy items and
30 maybe that one isn't necessarily controversial.

31
32 In doing a touch upon the interpretation section I feel like it's there's this like notion that people who
33 rehabilitate homes and they keep some existing walls are somehow like it's like perverse that they got
34 away with something because they kept a couple of walls and I my assumption here is that we're trying
35 to make it harder to get away with something. I think that will affect a lot of people and I wonder if that
36 would rise to the level of "controversial."

37
38 And then again I don't want to get too specific, but the contextual garage carport placement today we
39 talked about contextual setbacks. I don't want to get too specific, but this particular provision in the
40 code I think incentivizes a very dated design element and I'd be curious to know what the rewrite looked
41 like obviously. And I also think that we are going to experience a tremendous, like tremendous change in
42 the way people experience car ownership in the next 15 years and the houses that are going to get built
43 in the next 15 years will be built for 60 years and this garage placement provision has actually really
44 significant impacts on the way people layout their homes and it causes them to make decisions about
45 how to... anyways it's complicated. I just want to suggest that that might be a tier two item because I
46 actually do think that there's a real question as to what are we incentivizing with that, with that specific
47 policy and I think we owe it to ourselves to have that discussion.

48
49 So finally I want to just respond to that last statement which is I actually think this is great that we're
50 doing this all the time. I think that this should definitely be annual because when we provide clarity we
51 make it easier on all the parties involved. And so I actually welcome the idea of this happening as often
52 as possible. I don't think it has to be a very convoluted process.

53
54 Acting Chair Fine: Commissioner Gardias.

1 Commissioner Gardias: Thank you. So the reason I spoke about this because I think it just takes our
2 attention off the grand prize and doesn't use our and your time or schedule properly. And of course I'm
3 proponent of any cleanup, but there is a knowing how costly the Palo Alto Municipal Code is to design or
4 plan a building. If you see it from the planners and if you see it from the perspective of the customers
5 they pretty much spend thousands or ten thousands of dollars for any modifications, changes. Then
6 pretty much you would appreciate that change in the code should be going to make their life easier in
7 interpretation and making this clear and making this readable and pretty much just making their life
8 easier so pretty much they can focus truly on just designing great public spaces, great streets, and great
9 houses for themselves as opposed to just spending their time just interpretation of the, of this what we
10 write.

11
12 So I'm sorry for making this comment, but I think that of course we will help staff with any intention, but
13 I think that just listening to what my colleague just said any of this of this items will open can of worms
14 and pretty much will engage the Commission on just discussing items. And I can just add I would just I
15 had to make myself a list of a few items that I could add to this and I could just make others and
16 probably would be very long list and each one of my colleagues probably would add to this list and we
17 would end up with just pretty much just opening restructuring of the code totally while we are in the
18 beginning of just looking into the Comprehensive Plan. So my suggestion would be rather with full
19 respect to this plan to rather just focus us on the planning items, just put this in the proper perspective.
20 Thank you.

21
22 Mr. Lait: So if I could just make a couple of comments to so thank you for all the remarks. We're in
23 accord with you on your where you're coming from and where this gets placed in the scheme of things.
24 And I don't think we're taking our attention off the grand prize principally because Amy and myself are
25 not engaged in the Comprehensive Plan the way that Hillary and Jeremy and other people in the
26 Department are focused in on that effort. So we do have dedicated staff that's focusing in with our
27 consultants and the Citizen Advisory Committee (CAC) and there's a whole effort underway and the other
28 resources that we have at the Department is focusing in on processing those applications that you
29 mentioned.

30
31 And part of our job, my job and working with Amy is to find opportunities to streamline and make it
32 easier for customers and staff to get through the process because it is an old code. It hasn't been
33 updated in a while and I think some of the controversies that we have seen have generated because of
34 lack of clarity and interpretation over years of how the code has been used. And so when we're seeing
35 that kind of discourse taking place in the community and we look at the code and we see that this isn't
36 helping us I think that there is this need to address some of the problems. So in many respects I think
37 it's focusing our attention where it needs to be placed on the critical issues that are affecting residents
38 and neighborhoods where there's these conflicts of code interpretation and how that's taken place.

39
40 We welcome additional items to be added to the list. We want to hear what else needs to be added and
41 part of the reason why we're making this an annual event is if we don't capture it this year we'll tackle it
42 next year. And piece by piece slowly but surely we'll be able to have this be more of a living document.
43 There's not enough here for the Commission to respond to right now. So you will see the language, you
44 will see the actual ~~strikeout~~ underlined text being added there. You're absolutely right that there is there
45 are some items that will drop off into tier two and that's we're ok with that. We're not saying that this all
46 has to be tier one. If contextual garage placement is an issue ok, let's table it and we'll have another
47 conversation about it when the time comes.

48
49 There was just one other... thank you for the comment about loophole. We'll take a look at that and
50 make sure that the terminology that we're using is not suggestive or something like that. It's a fair
51 comment. The comment about the minimum DU's that's more of a reflection of existing policy, but I can
52 understand how that might evolve into a conversation.

53
54 Two more, two more comments. The we spend a lot of time at on at the staff level having planners
55 talking to each other first one on one then groups and there's this conversation taking place about how
56 to interpret it if you go to code section to a particular project. And that consumes a lot of our staff

1 resources, it delays the applicant, it would be much better if we can have clarity in our regulations. And
2 this doesn't solve all the problems, but it starts the ball rolling so that we're not having those, we're not
3 extending the planner view process by dialogue. And also in the case of substantial remodels and there
4 is no effort underway to make that more difficult and we're not looking at this as people are getting away
5 from something. What we're trying to do is establish a very clear line as to what is a substantial remodel
6 and what is not so that we're not having to place a stop work order on somebody's new home that
7 they're trying to remodel and then have that protracted conversation about did you cross the line or not
8 when there isn't sufficient guidance in the code to do that. So all we're trying to do is make sure that
9 everybody understands what the playing field is and that way everybody operates or plays accordingly.

10
11 Ms. French: Can I note something about the substantial remodel? That that is particular to noncomplying
12 facilities.

13
14 Mr. Lait: Yeah.

15
16 Ms. French: So I mean I think the goal is again not to say the word loophole, but there's this somebody
17 already has something vested basically in the building that crosses over a property line that has more
18 Floor Area Ratio (FAR) than you could get if you built it today. So it's kind of trying to dial that in to
19 something that can be explained very well.

20
21 Commissioner Alcheck: I'm not familiar with (interrupted)

22
23 Mr. Lait: Right. And just a last comment. I wanted to appreciate the comment about the noise
24 equipment because we're not we're looking at typos and clarifications, but we're trying to figure out how
25 are people getting... are we asking for something that's not reasonable or doesn't make sense? And so
26 you've got a lot of equipment in side yards that is existing that predates our code because now you can't
27 put any air conditioning (AC) unit in a side yard and it's the old systems and they're 15 years old or 20
28 years old and they're humming pretty loudly and all somebody wants to do is replace that with a new
29 quieter system that complies with our noise ordinance. And so the idea here is well if we told somebody
30 they couldn't do that they're probably not going to come to the City and pull a permit and get it done
31 right and not have the inspections that go along with it. So we're discouraging people from doing the
32 right thing by having this prohibition. So we're trying to recognize that and say yeah, that's fine, if you
33 want to put in, if you want to replace your equipment, great. Pull your permit and let's get it inspected
34 and let's make sure it's compliant with the noise ordinance and what should be the harm in that? So
35 those are the kinds of things we're [unintelligible].

36
37 Acting Chair Fine: Commissioner Michael.

38
39 Commissioner Michael: I don't really have any comments on the particular items that you've got
40 enumerated in your presentation made tonight, but I do think that there's just a couple of comments that
41 might be made about process improvement relative to how the staff and the Planning Commission could
42 work together on something as important as this. In the materials that were distributed online, we're not
43 getting hardcopy anymore and we didn't, we didn't get this material. It was three page so, so that
44 inherently forces us to react on the fly here with some lack of background or further analysis. So it sort
45 of it renders our feedback to you very superficial. So that is a process defect that I would really
46 encourage you to consider leading with the background information which may be more work for
47 Commissioners, but at least we would have a deeper, better understanding of what you're points you're
48 making when you make them and when you get to the next point in the analysis.

49
50 So it also impairs the validity of when you come back for our final approval because you don't get the
51 backing material until the end of the process when we should have gotten the background material in the
52 beginning of the process. So that is a to me a significant defect and the quality of the deliberations of
53 the Commission and you might want to think about what the proper sequencing of that of giving
54 information to the Commission might look like.

1 And I know that of late there's been a huge disincentive for the Planning Commission to constitute any
2 subcommittees. That was not the case when I joined the Commission four years ago. A lot of work was
3 done in subcommittee format. I think this might be an area where if you wanted meaningful interaction
4 with the Planning Commission a subcommittee, a standing subcommittee would be particularly
5 instrumental because this looks like it's a very important process to make Palo Alto more resident friendly
6 and easier to do business with and reduce any costs that don't add value to the process or time delays.
7 So I think there's sort of a disconnect between just the huge amount of time that staff spends on these
8 very important questions and in fact that you're not really getting a meaningful interaction with the
9 Planning Commission to provide you any assistance. So.

10
11 Mr. Lait: And just a quick comment on that. We weren't looking for a substantive comment at all and I
12 appreciate your comments and as I noted to Chair Fine, Acting Chair Fine we're kind of working through
13 some of these issues now. And so we thought it would just be helpful to introduce the concepts so that
14 when September 30th when we come back you had an understanding and that's when your deliberation
15 clock starts. It doesn't start today because you had nothing to look at. It'll start on the 30th and then
16 you have this as just the background to that.

17
18 Acting Chair Fine: Thank you. I think we're going to wrap this up. Just my quick comments; I would
19 encourage all of the Commissioners to email comments and questions before we come to our next
20 meeting. So it would be really helpful if we can get the ordinance if not the staff report early just so we
21 can all look it over and go through those things, even if it's just the ordinance. And then I'd also
22 encourage staff to push items that will save the City time, money, and staff time. With that I think we
23 can close this item. All good?

24
25 **Commission Action:** Commission took no action, provided comment and suggestions.

26
27
28 **Minutes Approval:** August 12, 2015 and August 26, 2015

29
30 Acting Chair Fine: And move on to minutes. This is to approve the minutes for August 12th and August
31 26th. Do I have a Motion?

32
33 Commissioner Gardias: So if I can make a comment it's just an informal matter so since I edited the
34 minutes from the 26th yes today and I sent it to Robin I don't know if that would be the vote for those
35 minutes would be applicable or she needs to look at those?

36
37 Jonathan Lait, Assistant Director: So probably just minor, are they minor changes or?

38
39 Commissioner Gardias: Well, minor changes, but there were a long list of them.

40
41 Commissioner Alcheck: She doesn't distribute revisions. So like if you make a revision we don't get to
42 see it. She checks it with the audio and video.

43
44 Mr. Lait: If there's no substantive changes (interrupted)

45
46 Commissioner Gardias: There are no substantive changes.

47
48 Mr. Lait: Ok.

49
50 Commissioner Gardias: Changing of the wording so that's (interrupted)

51
52 Mr. Lait: That will be fine.

53
54 Acting Chair Fine: So any Motions?

55
56 Acting Vice-Chair Rosenblum: I motion that we (interrupted)

1
2 Acting Chair Fine: Thank you.
3
4 MOTION
5
6 Acting Vice-Chair Rosenblum: That we approve the minutes.
7
8 Acting Chair Fine: Do I have a second?
9
10 SECOND
11
12 Commissioner Downing: Second.
13
14 VOTE
15
16 Acting Chair Fine: Thank you, Commissioner Downing seconded. Let's vote on this one. All in favor?
17 Great, thank you.
18
19 MOTION PASSED (6-0-1, Chair Tanaka absent)
20
21 **Commission Action**: Motion by Acting Vice-chair, seconded by Commissioner Downing to approve
22 Minutes of August 12th and August 26th, 2015. Motion passed unanimously (6-0-1, Chair Tanaka absent)
23
24 **Commission/Staff Announcements & Future Agenda Items**: Members of the public may not
25 speak to the item(s).
26
27 Acting Chair Fine: Just two last announcements; one, we would love to have additional Commissioners at
28 the pre-Commission meeting when possible when we do not have a quorum. So Robin will be sending
29 out an email trying to figure out and kind of rotate the schedule for that. So that will be more than just
30 Greg and myself can attend, it would be great to have you guys kind of on a rotating basis.
31
32 And then just the Citizen Advisory Committee (CAC) is ongoing. Last night we had our third meeting
33 where we talked about the Transportation Element and we also had our five new members as appointed
34 by Council. I believe there will be a sixth new member as one other member of the committee had to
35 resign from it. It's going good. I'd encourage you guys to watch it being videotaped. You probably have
36 enough on your plates and that's about it. Anything else?
37
38 Commissioner Gardias: Because of this update I can provide the tape from the CAC that I participate in.
39 So there was a meeting and conclusion to not to include Matadero Creek in the study, to exclude it from
40 the study and only focus on the three routes a one Colorado, East Meadow, and the third one is Adobe.
41 That those would be the proposed cross connection, connectors and then they the study also will look at
42 the crossing of the railroad tracks possibly. So that's their recommendation from the CAC about the
43 Midtown Connector Study.
44
45 Acting Chair Fine: Thank you so much. I guess that's it. This meeting's over at 8:26. Thank you all.
46
47 **Adjournment: 8:26 PM**