



# PLANNING & TRANSPORTATION COMMISSION MINUTES

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## Wednesday, January 27, 2016 Regular Meeting 6:00 PM, Council Chambers

5

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### Call to Order: 6:05 PM

7

8

9 Chair Fine: Wednesday, January 27th, 2016. This is our first meeting of 2016. And Robin, if you could

10 please take the roll.

11 Robin Ellner, Administrative Associate III: Commissioner Alcheck.

12 Commissioner Alcheck: Present.

13 Ms. Ellner: Commissioner Downing.

14 Commissioner Downing: Present.

15 Ms. Ellner: Chair Fine.

16 Chair Fine: Present.

17 Ms. Ellner: Vice-Chair Gardias.

18 Vice-Chair Gardias: Present.

19 Ms. Ellner: Commissioner Rosenblum.

20 Commissioner Rosenblum: Present.

21 Ms. Ellner: Commissioner Tanaka.

22 Commissioner Tanaka: Present.

23 Ms. Ellner: Commissioner Waldfogel.

24 Commissioner Waldfogel: Here.

25 Ms. Ellner: Seven present.

26 Chair Fine: Thank you very much.

27

28 **Roll Call:** Commissioner Michael Alcheck, Commissioner Kate Downing, Chair Adrian Fine, Vice-Chair

29 Przemek Gardias, Commissioner Eric Rosenblum, Commissioner Greg Tanaka and Commissioner Asher

30 Waldfogel. **All Commissioner's present**

31

32 **Staff:** Hillary Gitelman, Director; Molly Stump, City Attorney; Jonathan Lait, Assistant Director; Cara

33 Silver, Senior Assistant City Attorney; Robin Ellner, Administrative Associate III; Amy French, Chief

34 Planning Official; Jeremy Dennis, Advance Planning Manager; Chitra Moitra, Planner; Meg Monroe,

35 Management Specialist; Phil Bobel, Assistant Director Public Works

36

37 **Oral Communications:** Members of the public may speak to any item not on the agenda; **3 minutes**

38 **per speaker.** The Planning and Transportation Commission reserves the right to limit oral

39 communications period to 30 minutes.

40

41 **Speaker Time:**

42

43 **Public Comment on Agenda Items:** Members of the public may speak for 5 minutes on each

44 agenda item. If there is a sizable crowd, the Chair may reduce speakers' time to 3 minutes.

45

46 **Quasi-Judicial Items:** Applicants and appellants may speak for 15 minutes. All other members

47 of the public may speak for 5 minutes. If there is a sizable crowd, the Chair may reduce speakers' time

48 to 3 minutes. Applicants and appellants are allowed an additional 3 minute summary at the conclusion of

49 all of the public testimony."

1 Chair Fine: Now, it's time for Oral Communications where members of the public may speak to any item  
2 not on the agenda. If you'd like to speak please submit a speaker card. Do we have any yet? None,  
3 okay.  
4

5 **Agenda Changes, Additions and Deletions:** The agenda may have additional items added to it up  
6 until 72 hours prior to meeting time. **Items 2 & 3 were switched on the agenda**  
7

8 Chair Fine: Next up is agenda changes. At the very beginning of this meeting I'd just like to take 10 or  
9 15 minutes to frame-up a few meeting-related issues and hear the feedback from my colleagues here on  
10 this Commission, but first I want to take the pulse of the Commission. I wish there were more folks in  
11 the public. Can I get a show of hands who's here for the CPI issue? A lot of staff here for that. So I  
12 think I'm going to propose moving CPI up to the number two spot after the Comprehensive Plan Update.  
13

14 **Directors Report:** Members of the public may not speak to the item(s).  
15

16 Chair Fine: And I think now is the time for the Director's Report.  
17

18 Hillary Gitelman, Planning and Community Environment Director: Thank you, Mr. Chair. Commissioners,  
19 happy New Year. I am going to give you just a brief report, and I'm sure we'll have more to say at the  
20 next meeting as well. I did notice on the tentative agenda listing we have a couple full agendas coming  
21 up. So apologize we had to cancel that last one for a light, we didn't really have any items, but it looks  
22 like we're stacking them up in the next few meetings.  
23

24 So just some of you may be aware there was a Summit this last weekend, on Sunday, about the  
25 Sustainability and Climate Action Plan, a very well attended and successful event. For those of you who  
26 weren't able to make it, there are going to be, there's going to be a summary of the input received that I  
27 think is going to be really useful to the Comprehensive Plan Update as well as the S/CAP process. The  
28 Summit was followed up with a Study Session on Monday night at the City Council. Kind of the same  
29 overview or presentation of what the issues are, and the Council had an opportunity to weigh in on some  
30 of the long range goals and next steps in that planning process. So it was very interesting, and I'm  
31 happy to answer questions offline for anybody who has a particular interest in that.  
32

33 Also wanted the Commission to be aware that just this week the Governor's Office of Planning and  
34 Research released the long-awaited changes to the CEQA Guidelines around the significance thresholds  
35 for traffic and transportation. So we've all known this is coming, but it's finally out there in written form  
36 based on comments that were received from a preliminary review draft. It now goes through a 45-day  
37 public review period, and then a formal rule making process. Once it's formally adopted, local  
38 jurisdictions will have two years to implement the new guideline. This is a guideline that's going to take  
39 us all away from Level of Service as a metric of traffic congestion and transportation impact and towards  
40 vehicle miles traveled per capita or some similar measure. So there's more guidance from OPR than just  
41 the change itself. We'll find an opportunity to share the document with the Commission, and I'm sure  
42 we'll have opportunity to calendar a discussion of this issue and all of its ramifications for Palo Alto  
43 sometime this year.  
44

45 Also wanted the Commission to be aware that the Council holds its annual retreat on Saturday. It's a  
46 priority setting opportunity. I think they're, they're also going to be just be discussing all of the Council  
47 priority projects that relate to the priorities. Last year, if you remember, their priorities were the Comp  
48 Plan Update, Built Environment, Infrastructure Plan and Healthy City Healthy Community. We're not  
49 expecting those to change dramatically, but I think they're going to drill down into some of the projects  
50 or the priority projects that support those priorities. That's all I have to report.  
51

52 Chair Fine: Thank you, Director Gitelman. Any questions? None. Okay.  
53

54 Since this is our first meeting, I just want to take a few minutes to discuss how we hope to run the  
55 meetings, what the Vice-Chair and I would love from all of you in terms of contributing. So I think to

1 start we have to commend our previous Chair Tanaka for running our meetings so efficiently and  
2 effectively and for guiding them towards the substantive issues rather than the process issues.  
3

4 In general, the Vice-Chair and I plan to follow that model of having a roundtable to identify major issues,  
5 and then go through them one by one. In terms of setting up each meeting and each item, we're going  
6 to speak with staff and try to get a clear set of priorities, processes and purviews for each item, and we'll  
7 try to highlight those for each of us so we know what we're talking about and what we're trying to get by  
8 the end of that item.  
9

10 As we've heard loud and clear from Council, we also need to hew towards their questions and issues.  
11 That's not to say we should just be a rubberstamp Commission for the Council, but let's try to answer  
12 their questions, and then get to any ancillary or additional materials. Maybe there's even a format we  
13 can work on this year to do that in a good way.  
14

15 We've asked staff for a bit of more lead time on the reports, and I encourage all of us to email or call  
16 them with questions before our meetings. That said, staff is also an excellent resource for us during our  
17 meetings, and we should look to them for guidance or to recap our discussions as we're going through it.  
18

19 I'd like to continue our process of having a PTC rep at Council to speak on transportation or planning  
20 issues, and so we'll work out the schedule shortly. Something we haven't done as a Commission in a  
21 while is to form subcommittees or write Colleagues Memos. If you feel this is appropriate or you think  
22 there's a topic you'd like to take on, please let us know. For example, some areas of interest might be  
23 Concept Area Plans, airplane noise or retail zoning. I think those are tools within our toolbox, and if you  
24 find them appropriate, let's talk about it.  
25

26 And finally I want to encourage each of you to provide myself and the Vice-Chair feedback. I know many  
27 of you have had previous experience chairing a board or running a company. I haven't, and so I would  
28 truly appreciate your thoughts on how we can do an even better job in 2016. With that, I just want to  
29 open it up to the Vice-Chair or anybody else, if you have any comments or questions.  
30

31 Vice-Chair Gardias: Just a quick comment. I know that the Chair will be reaching out to all the  
32 Commissioners here, might have already reached out to some of you. And we discussed about setting  
33 priorities for the Commission that would be aligning with the Council priorities as well. So that's  
34 important, your input is important, is welcome. So please work with us and provide the input at the  
35 upcoming meetings. Thank you.  
36

37 Chair Fine: All right. That incited them.  
38

### 39 ***Informational***

40 **1. Comprehensive Plan Update:** Presentation on the Comprehensive Plan and Next Steps  
41

42 Chair Fine: I believe we have next Jeremy Dennis with a brief Comprehensive Plan update. This is a  
43 presentation on the Comprehensive Plan and our next steps.  
44

45 Jeremy Dennis, Advance Planning Manager: Good evening, and it's good to see you all. Happy new  
46 year. Jeremy Dennis, the Advance Planning Manager. I was asked tonight to provide an update on the  
47 ongoing Comprehensive Plan Update and also included some information about the Draft EIR that's  
48 coming out in the next couple weeks. As you know, your Chair serves on the Citizens Advisory  
49 Committee, and if I make any mistakes tonight, I'm sure he'll correct me. So the thing that we're really  
50 excited about in the Planning Department and my team is that this is really just a once in a generation  
51 undertaking. It's this exciting opportunity to re-look at the value system that we have here in Palo Alto  
52 and modify it if needed moving forward for the future development of the City.  
53

54 As you know, a Comp Plan is made up of the various required elements that you see on the screen here  
55 under State law. Ours is actually much more. I'll be showing that in a moment. Here's that  
56 organization. The State requirements are on the left. Our current Comp Plan or existing Comp Plan, the

1 center, and what the Council has decided is the structure for the Comp Plan for 2030. You'll see that  
2 there's additional elements there, and we also have a governance implementation chapter that go  
3 beyond the State requirements.  
4

5 What is important to note at this point is that there seems to be general consensus that the current  
6 Comp Plan, existing Comp Plan is actually a good place to start. We're not anticipating major changes to  
7 that Plan; although, there is a very robust discussion right now at the CAC on a variety of issues, but  
8 that, we, we've started from that place. This is the process that we're utilizing related to the discussion  
9 that's going on, and we see it as a back and forth, a cross from Council, the community and staff then  
10 back again. The Citizens Advisory Committee is our primary tool for receiving input from the public and  
11 primarily through a tool that we call the Digital Commenter. And I hope you get a chance to visit this  
12 tool if you haven't already. We're very proud of it. It actually in the six months that it's been live off and  
13 on, we've received hundreds of unique comments and thousands of visits. So it's been very successful in  
14 that. Input is given directly to the members of the CAC for their review.  
15

16 A little more on the Citizens Advisory Committee. It was recreated in May, and we first convened it in  
17 July. We've had, this slide's a little behind. I think we've had seven meetings now, and that just is the  
18 CAC itself. There's actually a group of subcommittees that have started to meet as well for the  
19 Community Services and Transportation Elements. We are bringing to Council in a couple of weeks the  
20 first draft, our first product, which is the Community Services Element. If you haven't seen it, let us  
21 know. Subcommittees will continue to do their work. We have a third one about to start related to  
22 sustainability, and they'll be meeting throughout the year and inputting information about that topic.  
23 Here are our illustrious members.  
24

25 This you're probably basically familiar with, but the CEQA process related to the EIR, what we need to do  
26 in an EIR. And this is just a little detail on how we got to this point related to this Draft EIR document  
27 that's coming in a few weeks. It started in June of 2014 with the scoping through the Summit activities  
28 in last May. So you should have as part of your packet a booklet. We're calling it the booklet to discuss  
29 what the Draft EIR is all about. Hillary's holding it here. It is really our opportunity to describe what is  
30 inside of this document. It's a little different than the normal Draft EIR because we've included this  
31 concept of scenarios, essentially land use decision scenarios that produce a set of data that we can see  
32 what those impacts of those decisions are. They're varied in their impacts and what they do, and I'm  
33 going to show those in a moment.  
34

35 So we took that opportunity before the Draft EIR came out in order to discuss that, so people weren't  
36 surprised and understood how to use it. This is pretty self-explanatory. I think the important bullet here  
37 is Number 4. They're really designed to test concepts. Nothing in it is prescriptive. The staff, the  
38 consultants are not suggesting that any of the tools be used as-is. They could be combined. They can  
39 be changed. They can be merged together. Pieces of it can be thrown out. The Council actually has  
40 identified in their last meeting a fifth scenario that we're starting to develop that would address that  
41 jobs/housing imbalance, so we're glad that they started to take the input already to design that. So  
42 we're excited to bring it out and asking for input from the community about what they think about what  
43 potentially we could do here.  
44

45 So I'm going to go through this really quickly. So this fourth scenario's, this is the business as usual  
46 scenario which sounds as it is. It's required under State law, but it also, it's really the no project  
47 alternative. So the numbers you see up there are net new numbers in housing, population and jobs. So  
48 nothing really changes under this. This is just we continued under our existing Comp Plan.  
49

50 The second one we call slowing growth. We're testing a set of different tools on limiting office, R&D  
51 beyond what we've already done, encouraging smaller housing units but keeping the same densities and  
52 basically the same sites within the Housing Element. And you can see the numbers, they're  
53 corresponding. At the end of this, I'll have a chart that shows all the numbers together so you can get a  
54 sense of the differences.  
55

1 Number 3 is housing tested. It includes a, some sort of permanent, some sort of limit on annual growth  
2 of office space similar to what the Council has already looked at as an, on an interim basis, but we're also  
3 looking at moving the housing sites that were identified in the Housing Element in the southern part of  
4 the City. And that's a conversation we're anticipating having with the Council on, in March at this point.  
5 And it also introduces this test concept of grade separations using the trench that has been discussed in  
6 the City in recent months.  
7

8 The fourth concept is a fairly interesting one. This is where we're testing a whole range of sustainability  
9 measures that even though the growth isn't as curtailed as it is under previous scenarios, the impact isn't  
10 nearly as significant. We're also looking at the movement of housing as indicated there and then some  
11 additional transportation pieces. So this is the comparison of those four scenarios. You can see modest  
12 changes as you move through the four scenarios there.  
13

14 If you're familiar with an EIR, this should be something you've seen before. These are the 18 pieces that  
15 we analyze with our thresholds under State law. There is a ton of data that's coming out of this. And  
16 this is just a mere sample of the types of metrics and data that you're going to be seeing, and we're real  
17 excited to be able to present this because again this is the whole point is to be able to show that if you  
18 do X, Y, Z, these are the results that you're going to have. And then further decisions can be made. So  
19 this is just a few of the, a few examples.  
20

21 So our key findings. I'll let you look at those for just a moment. I'm not going to repeat any, but here  
22 you go. And obviously with the Draft EIR comes the discussion of the impacts and the mitigation. That  
23 conversation is finalizing right now as we speak, and there will be a significant suite of mitigation policies  
24 to get the vast majority of the impacts under less than significant.  
25

26 So our next steps. This is just a kind of a sample of where we are, and it's a little out of date. We  
27 anticipate some changes related to the housing discussion with the Council and others. At this point,  
28 we're anticipating pretty regular meetings with the Council and the CAC over the next year, and  
29 subcommittee meetings as needed during that process. So a lot of public participation and Council  
30 participation. And I think that's it.  
31

32 Hillary Gitelman, Planning and Community Environment Director: If I could just wrap up with a couple  
33 additional thoughts. Thank you, Jeremy. I just wanted to make sure that the Commission understood  
34 that the work that the Commission did in preparing recommended changes to the Comprehensive Plan,  
35 that big document that you all prepared and forwarded to the Council in April of 2014, has been an  
36 important input to this process. So the CAC has all that information, and as they go through each  
37 element, they're reviewing that information along with the existing element and the input that the Council  
38 has provided on the organization of goals and the vision statement for each Element. So it's all, I mean  
39 we actually talked last night at the CAC meeting on transportation about the information overload that  
40 folks are working with, and Adrian, or the Chair can speak to that. There just, you know, all of this stuff  
41 is on the desk at one time as they're trying to refine the draft policies and programs for and create  
42 revised work products for the City Council to review.  
43

44 Another two important points at which the Commission will have an opportunity to weigh in. One is  
45 coming up soon, and that'll be a public hearing on the Draft EIR, so we'll make sure you all get copies  
46 sometime next week or the week after. Take some time to review the data for the four scenarios, think  
47 about the issues and the key findings that you think are of interest, and then we'll schedule a time on  
48 your agenda for a public hearing and opportunity for questions and comments on the analysis and the  
49 scenarios. So that'll be soon.  
50

51 And then at some point probably towards the end of this year after the CAC has forwarded their work to  
52 the City Council, there'll be a point at which all of this work has to circle back to the Commission because  
53 the Commission's role under our Code is to forward a recommendation on proposed Comprehensive Plan  
54 amendments to the City Council. So we'll need you to do, perform that function, do the review of the  
55 updated sections and forward a recommendation to the Council. So it's a little too soon to schedule  
56 exactly when that is or anticipate how many meetings that will take and what it'll look like exactly, but I

1 want to assure that that role is preserved for you in the Municipal Code, and we'll be asking you to do  
2 that later this year. Thank you.

3  
4 Chair Fine: Excellent. Thank you both. So I would definitely encourage all my Commissioners when we  
5 do the D, Draft EIR, let's look at that. And an interesting point, as Jeremy mentioned, is when the first  
6 element goes to Council. So I'm going to try to be there, and I'd encourage you to be there so we can  
7 see how the process moves forward. Just want to open it up to any brief comments or questions.  
8 Commissioner Rosenblum.

9  
10 Commissioner Rosenblum: Yeah, I might have gotten this from a previous meeting, but how were the  
11 scenarios actually chosen? And as a, just to check my math. The population growth anticipated by 2030  
12 is, well, let me ask you. What are the bookends of growth anticipated on an annual percentage basis and  
13 how does that compare to anticipated growth in the County? So two questions. One is around how were  
14 the four scenarios selected. I know that one is statutory. The second question is the average annual  
15 growth rate and how that compares to the anticipated greater Bay Area annual growth rate in population.

16  
17 Mr. Dennis: Okay. I'm taking the first question first. That process started in 2014 with a conversation  
18 with the Council, and ultimately in December of 2014 the Council asked staff to develop the scenarios  
19 based on some basic criteria, but that there was a broad range of different decision points within that.  
20 So staff went out and put those together in that way, and that's what's presented before you. Let me  
21 defer to my Director for the second question, if that's all right.

22  
23 Ms. Gitelman: Thank you, Commissioners. I think we're going to have to get back to you on your  
24 question about the annualization of these growth rates. Just as a background, we use as our business as  
25 usual forecast for 2030 the ABAG projection for jobs because we really don't have good local data on jobs  
26 with which to modify that projection. But when it comes to population and housing, we do have good  
27 local data going way back in terms of the number of units we produce per year. So we used that as the  
28 basis for the population and housing forecast for business as usual. And then all the scenarios are more  
29 or less in the jobs and housing category dependent on the policies that we're testing in those scenarios.  
30 So we'll talk more about it and the annualization of the growth rates when we come back for a hearing  
31 on the Draft EIR.

32  
33 Commissioner Rosenblum: Okay. Just I have it as .64 percent to .99 percent, so I wanted to check that  
34 and see how that compares. But what you're saying is the .64 is our historical average and then the  
35 others would be higher than that historical average. So the .64 is the business as usual which you took  
36 from the Palo Alto historical average. Is that ...

37  
38 Ms. Gitelman: I'm not going to check your math, but I'm sure it's right. I, just so we're clear on the four  
39 scenarios. The first two scenarios had the same amount of population and housing. Then the idea of the  
40 third scenario is we're going to, we would be eliminating some housing sites in the southern part of town  
41 that aren't all that optimal and increasing density on other sites. So we're thinking you would get  
42 incrementally more housing. And then on the fourth scenario, you eliminate those souths in the, sites in  
43 the south that are less than optimal and increase density and add some additional sites along El Camino.  
44 So you'd get even more.

45  
46 Commissioner Rosenblum: Thank you.

47  
48 Chair Fine: Commissioner Downing.

49  
50 Commissioner Downing: Sure. So I have a couple questions. So on Scenario Number 2, there's a bullet  
51 here that talks about explores encouraging smaller housing units, keeps existing densities. So what are  
52 the methods or ideas that you're looking at to encourage smaller housing units without changing  
53 densities?

54  
55 Mr. Dennis: Well, the scenarios suggest various things, but we've made it a point within the booklet and  
56 actually in the Draft EIR to suggest that there's, there may be many ways to do this. So we're not on the

1 staff level suggesting you need to do X, Y, Z to get there. There may be different ways to do that. So  
2 like I've refrained from having a specific conversation around what those tools may be because there's  
3 different ways to get there, and that's something that we hope comes out of the conversations with the  
4 Council, the Planning Commission and the CAC.

5  
6 Ms. Gitelman: I'll just add to that. I mean I think the idea behind the bullet is that you would allow  
7 dwelling unit densities to increase, you know, the number of dwelling units on a site, but the FAR would  
8 stay the same under this scenario. So you're trying to get ...

9  
10 Commissioner Downing: So (crosstalk) the density.

11  
12 Ms. Gitelman: ... more smaller units within the permitted floor area that's allowed.

13  
14 Commissioner Downing: That's sounds like density though.

15  
16 Ms. Gitelman: Pardon me?

17  
18 Commissioner Downing: That sounds like density though. You're adding more units for the same  
19 amount of space.

20  
21 Ms. Gitelman: Yeah. Density is measured two ways, so it's measured by the number of dwelling units,  
22 but it's also measured by floor area ratio. So we could have stated that more gracefully.

23  
24 Commissioner Downing: Then the other question I have is, it's really not so much of a question but so  
25 much as it was a comment. It would be, I understand that for Scenario 1 for the business as usual, so  
26 the jobs projection here is the ABAG projection, but the housing projection is based on our annual  
27 housing growth rates. I feel like it would be useful here to take the jobs projections and actually give us  
28 an idea of how much housing we would need to accommodate those jobs. Because I sort of feel like  
29 basing that on how much housing we've been producing every year is kind of irrelevant.

30  
31 Ms. Gitelman: Well, thank you for those comments. We'll look forward to our hearing, and we can get  
32 into depth on observations and suggestions like that.

33  
34 Commissioner Downing: I mean it would just be nice to see data that compares, you know, the  
35 scenarios that we envision for ourselves versus the reality which is predicted by ABAG, the State and the  
36 County. Those are my comments.

37  
38 Chair Fine: Thank you. I don't see any other lights, so I'm going to close this item. Thank you guys  
39 very much.

40  
41 **Commission Action:** Staff provided the Commission with an update on the Comprehensive Plan;  
42 Commissioners provided comment and asked questions. No action taken.

43  
44 Chair Fine: I've seen a couple more people come in. I just want to let people know that we've moved  
45 Item 3, the CPI Ordinance up to this next spot, so the Study Session on ADUs will happen after the CPI  
46 item. [The Commission proceeded to Item Number 3.]

47  
48 **Study Session**

49 **2.** Study Session Discussion and Direction to Staff Related to Second Dwelling Units, Including  
50 Discussion of Existing Regulations, Consideration of Possible Amendments and Other Related Topics.

51  
52 [The Commission took up this item after Item Number 3.]

53 Chair Fine: So this is a public hearing to, sorry, wrong one. This is a study session on direction to staff  
54 related to Second Dwelling Units including discussion of existing regulations, consideration of possible  
55 amendments and other related topics. I know the Commission is excited to get to this task, which has

1 been given to us from Council. That's awesome. And given that there's no specific rush, let's try to  
2 figure out the best way to support Council's goals here.

3  
4 Just to remind us all of those, one goal is how can we grandfather or make conforming existing  
5 noncompliant ADUs. A second goal is updating the Zoning Code to increase construction of ADUs, and  
6 then there is also kind of a third piece about any other relevant items that we think is important for  
7 Council to consider if they look at Second Dwelling Units. Just to frame this a little bit, there are many  
8 different reasons to explore Second Dwelling Units including allowing seniors to age in place; providing  
9 housing for students; providing income to house, to folks who may be house rich but cash poor; and  
10 providing more affordable housing.

11  
12 Our purview is the zoning aspects of these recommendations and how they fit into the Comp Plan. Since  
13 this is a study session, we have the time to really dig in here, and I expect that this topic will take at least  
14 two meetings. One other point. Staff is specifically interested in hearing about what a public process  
15 might look like for this issue, and one way for us to accomplish this is to weigh the benefits of changing a  
16 particular constraint, for example parking, against the negative impacts to our community and  
17 neighborhoods. With that, I believe staff has a presentation.

18  
19 Jeremy Dennis, Advance Planning Manager: Thank you very much, Chair Fine. Again, Jeremy Dennis,  
20 Advance Planning Division. I'm here to begin the conversation with the PTC on Second Dwelling Units.  
21 There's a couple things that we hope we cover tonight as the Chair related, introduce the issues around  
22 Second Dwelling Units, hear back from the PTC on what information they'd like to see in a future meeting  
23 to help with any analysis that we provide back, receive any initial feedback from the PTC and the public  
24 on, from the PTC on what a public outreach process may look like, and certainly hear from the public.  
25 It's not staff's intention tonight to have an in-depth conversation around the nuances of zoning or debate  
26 on the issues around SDUs. Certainly they're complicated within the Code and they're controversial  
27 among certain members of the community, but we wanted to start with a high-level conversation and  
28 hear what you needed from us to continue.

29  
30 So with that, as Chair Fine mentioned, the Council Member from, Council memo from October of 2015  
31 indicated the three first bullets on the screen. It's worth noting that there is an alignment with the  
32 adopted Housing Element, particularly the two programs listed there related to increasing Second  
33 Dwelling Units, so it's a timely conversation. Staff in your staff report and here on this slide provided just  
34 some high-level thoughts on the perceived benefits and impacts from the construction of SDUs, so those  
35 are listed here. This is not exhaustive and certainly doesn't indicate any staff preference, but you can  
36 see those. The next two slides are just a basic history. It's expanded in your staff report.

37  
38 One of the things I wanted to touch on is that, you know, the City, this is not the first time the City's had  
39 this conversation. Most recently it was between 2003 and 2006 in the last major Zoning Code update,  
40 and there were two outcomes from that discussion. It allowed smaller attached second units and  
41 permitted taller attached second units in the RE Zone. So I'm just going to continue with these two  
42 slides. On this slide, I think what's interesting to note is there are approximately 3,500 parcels that's,  
43 that we've identified that are currently eligible for Second Dwelling Unit construction under the current  
44 Code. It's also interesting to note that since 2002 only 2 percent of all eligible R-zoned lots have  
45 constructed legal SDUs. So this is just an expansion of that earlier number. The right column would add  
46 up to the 3,500 parcel number there.

47  
48 We did try to figure out ways to determine how many nonconforming SDUs there are in the City. This is  
49 a very difficult thing to do. A few creative ways, but we weren't able to come up with a number that  
50 we're really comfortable with. Needless to say, we do believe that there's been, I wouldn't say  
51 substantial but there has been construction of nonconforming units in the City since 2002 when we  
52 started actually tracking them. These are the primary issues that we identified in the staff report that  
53 we'd like to hear back from you that surround SDU construction issues. Again, this isn't exhaustive, but  
54 we think that these are the issues that do need to be discussed and then formulated as some sort of  
55 motion at some point later on to Council.



1 So as I stated at the start, what we're asking from you is a few things. What do you need from us  
2 moving forward to assist in the discussion based on the Council's direction? Is there more data or  
3 research that you're looking to have? What are your thoughts on a public outreach process? Would it be  
4 something that this body would sponsor? Would we have special meetings? Would we use online tools?  
5 And is there anything specifically that you'd like to do as Commissioners related to this process? With  
6 that, love to hear back from you and the public. Thanks.  
7

8 Chair Fine: Thank you so much. Let's go to public comments. I believe we have a number of speakers,  
9 and sorry for making you all wait through the past item.  
10

11 Vice-Chair Gardias: Thank you, Mr. Chairman. We have eight speaker cards. If we have more, please  
12 submit them to Robin or to us. I'll be reading out your name and the speaker that will be coming up  
13 following you. So we have Stephen Levy followed by Elaine Uang. You have three minutes.  
14

15 Stephen Levy: Good evening. I've read the letters, and I know that you have people asking you to relax  
16 a whole number of potential restrictions, and you have people saying I'm for more secondary units, but  
17 don't do this, don't do this, don't do this and don't do this. So I have a data request that I hope that  
18 you'll pass along to staff which is to help you understand how many units are up for grabs under each of  
19 these policy decisions, because the thing I fear is I don't want you ending up spending a year, half a year  
20 when we're talking about adding four units. If we're not going for a lot of units, that's not practical. It  
21 doesn't seem to be a lot. I've written you that I think this is a part of the discussion on housing about  
22 the character and the soul of Palo Alto where I've lived since 1963. If you look at what the staff and the  
23 Colleagues Memo has recommended to you, they're about people. They're about aging people being  
24 able to live in place with caregivers in a secondary unit. They're about families being able to keep  
25 together, maybe the family in the main house and the elderly parent in the second unit. They're about  
26 people in this community who might make and need a little extra income from renting a unit. Those are  
27 all residents that we're helping with this, but it's also about our diversity that we're losing as we become  
28 a City where Nancy and I on my economist income and her health educator income could easily afford a  
29 house near the community center in 1977. We couldn't do that now. Ask the Council and the CAC who  
30 could afford a house now with the income they had before. So a secondary unit could be rented to a  
31 grad student. They're bigger than a micro unit. They could be rented to a young tech worker. They  
32 could be rented to a single teacher who might not pick Palo Alto without that option or a couple, a  
33 firefighter and his partner, her partner. People who really want to make space for in this community  
34 without having to do it all through subsidized housing. These units, as I said, are larger than micro units,  
35 which have great demand in places of demand, so give it a try, but the, this is about the character of our  
36 City. Make it work for diversity, for allowing people who are having trouble. Thank you.  
37

38 Vice-Chair Gardias: Thank you. We have Elaine Uang, followed by Mary Anne Marcus.  
39

40 Elaine Uang: Thank you for taking this up. There are many good standards to consider in the staff  
41 report including easing the lot size minimums and offering flexibility in parking requirements especially  
42 allowing things like tandem parking or parking in front setbacks. But I also want to talk to you tonight  
43 about a type of ADU that can actually be created pretty quickly and very affordably, the junior ADU or a  
44 lily pad unit. In some ways the best and most affordable housing resource that we have is the housing  
45 stock that already exists. Junior ADUs are second units that are carved out of existing homes without  
46 adding a single square foot. It's not about adding new structures. It's about creating things in existing  
47 homes. It's easy, quick, relatively affordable especially we're not talking about new construction. If our  
48 City considers this and implements this as part of a Second Unit Ordinance update, we would be in very  
49 good company. On January 6, 2016, just three weeks ago, San Rafael just accepted junior ADUs as part  
50 of their Second Unit Ordinance. There are several other Marin communities, Fairfax, Larkspur, Belvedere,  
51 that have also recently done the same. The reason I know about junior ADUs is because of a south Palo  
52 Alto resident. The person approached the Planning Department about four years ago to convert her 350  
53 square foot family room. As a long-term resident she, with an eye on retirement, she wanted a junior  
54 ADU for a modest source of income. She didn't want to expand her house, just wanted to call part of it a  
55 second unit. It's too big for her, but with the current rules especially the parking requirement she  
56 couldn't do it. So I think we should recognize this and really just align our Zoning Code to kind of reflect

1 some of the community needs that happen right now, because as Steve said, ADUs are about people.  
2 It's about taking care of the residents who have lived here for a long time and want to remain in the  
3 community that they have been in for their adult lives. It's about the residents with adult disabled  
4 children who need private residential accommodations but need nearby support, the teachers who  
5 addressed the School Board last night and the librarians and nurses who serve our City but travel hours  
6 to serve our City and our community. And I'll be really selfish. It's kind of about families like mine. I  
7 have a mother with a degenerative neurological condition. My father is her fulltime caretaker. If we  
8 could house them in a second unit nearby, my father would have help and he could spend more with his  
9 granddaughters. So I would really encourage to consider many of staff's suggestions, particularly the  
10 minimum lot size, parking requirements but also add this junior ADU consideration. Let's bring our  
11 second unit Zoning Code out of the 20th century model of low human density, high car density and  
12 reflect the desire of many to have more people living together in the community that they have been a  
13 part of for a very long time.

14  
15 Vice-Chair Gardias: Thank you. We have Mary Jane Marcus, followed by Lisa van Dusen.

16  
17 Mary Jane Marcus: Thank you. I'm just going to get my timer on. So anyway, I'm really glad you're  
18 looking at, I'm Mary Jane. I live in College Terrace. I went to Nixon and Gunn and Castilleja and  
19 Pinewood and various places, but I've lived in San Francisco. I've lived in Seattle, and I've lived abroad,  
20 so I have kind of a broader perspective. I have young kid, a young daughter, so I know a lot of people  
21 in the community with young children. And I think one of the, yeah, I think accessory dwellings are just  
22 really important as a way to get started in terms of this. We really need more housing, and this is I think  
23 kind of one of the lowest hanging fruits, so I would really urge you not to spend a long time discussing it.  
24 And if you were to look at studies, like I would be very interested myself in looking at communities that  
25 have added ADU Ordinances, how many ADUs were actually built, because my feeling is we want to have  
26 the most supportive ADU regulation possible, because I think even with that not that many, I'm not sure  
27 how many are going to get built. You know, we could have a trial period, try it out for three years to see  
28 how that goes, but I think we really want to, you know, not have a minimum lot size requirement. We've  
29 already got zoning restrictions as it is on lot coverage and that kind of thing. I just with family help  
30 bought a house here that's substandard. It's 4,700 square feet. You know, I think Berkeley requires  
31 3,500 square feet for zoning, I mean to have a second unit. So I guess the last thing I just want to say  
32 is, yeah, I'm really glad you're looking at this. I really want Palo Alto to be inclusive. I want to stick  
33 around here, and I want us to be welcoming people not keeping people out, and I think this is one of the  
34 first ways we can do that. So and I'm happy to be a resource to you or do research and, late at night  
35 after my daughters goes to bed. So I think that's about it. So just do a full court press, keeping it going  
36 and yeah, thank you.

37  
38 Vice-Chair Gardias: Thank you. Lisa van Dusen followed by Sandra Slater.

39  
40 Lisa van Dusen: Good evening. Again, thank you for taking up this issue. I wanted to underscore a  
41 couple of things that actually both of the other speakers have mentioned and just the whole notion that  
42 we all know we need more housing and that it, this kind of housing would really provide for some of the  
43 diversity and continuity that I think we all want. I'm reminded of the book by Richard Florida about the  
44 creative class that kind of attracts the kind of innovation and vibrancy that I think we all want in Palo  
45 Alto, and we are in dire straits of losing that unless we take some actions like this. I think there's, there,  
46 my husband and I and a lot of our neighbors and friends would very much like to have some kind of  
47 secondary unit and are eager to do that. So I'm hoping that as was just mentioned, that some of the  
48 barriers can, that are in place right now to having that can be removed and that the process can be  
49 streamlined so that people can stay in Palo Alto. A few of the, I would also like to emphasize the idea of  
50 the, I'd never heard the term the junior unit, junior secondary unit is very much an option. We and other  
51 people have extra bedrooms in addition to garages, existing structures that can be converted not just  
52 building extra micro units, but I think all three are in order. So I do hope you reduce the necessary lot  
53 size to as low as possible, ideally 6,000 feet or lower, reduce the parking requirements. And I here I  
54 would just say that if you look around, most people, I don't know how many people you know that park a  
55 car in a garage. I'd be interested in a show of hands of people, how many people do that, but if they  
56 don't have a car in there, they probably have stuff in there, and that I hope we prioritize people over cars

1 and other stuff. And I think that the parking requirements are something to look at closely so that you  
2 can park in a driveway. There are apps. There are lots of solutions there. So in short, I hope that  
3 people like our neighbors who have two small children, grew up on our street, their kids are going to  
4 local schools, can stay here. And you know, people are getting better and better at living in small spaces  
5 and even without cars. And so I'm hopeful and again hope you do take speedy and leaderly action here.  
6 Thank you.  
7

8 Vice-Chair Gardias: Thank you. So we have Sandra Slater, followed by Randy Popp.  
9

10 Sandra Slater: Thank you, Commissioners, for allowing me to address you this evening. I don't want to  
11 reiterate all that's been said before, but I totally agree with Steve, Elaine, Lisa's comments here this  
12 evening, and I've also written a letter that you have on record. But I really want to talk to you about  
13 increasing the housing stock here in Palo Alto. We obviously need it. We need it for young folks and for  
14 old folks. And I would really encourage you to look at FAR, setbacks and all those things that need to be  
15 addressed and studies and, but I certainly hope that you will relax the current zoning restrictions to  
16 increase housing alternatives. One of the biggest concerns, and I've heard about people opposing ADUs  
17 or SDUs, is that parking is going to be a problem and people are going to be parking on the street in  
18 front of their houses. And I don't know how many of you heard Stefan Heck address the City Council on  
19 Monday evening. A fabulous presentation, it's online, the slide deck is available. He is sort of the guru  
20 on transportation and the future of transportation. He's at Stanford, and he gave a wonderful  
21 presentation to the Council on Monday, and he said that basically young people are not finding their  
22 independence and identities through their car like we did with my generation, but through their  
23 smartphones which are offering them enormous possibilities, that they don't want an asset that costs  
24 around 8,000 a year to own, maintain and operate all for an asset that sits idle about 95 percent of the  
25 time. They're much more likely to ride bikes, use car services like Uber and Lyft, and take public transit.  
26 Even older people are looking at the financial burden of a, of car ownership and are changing their  
27 perspectives. Yes, we need to build out better, more convenient transit options, and it'll take time for  
28 autonomous vehicles to infiltrate our highways and neighborhoods, like Lyft and Uber and Zipcar are  
29 changing the fabric of our transportation system now. From a sustainability point of view, it makes sense  
30 to build smaller, more efficient units and, while getting some much needed housing near transit is  
31 ultimately ideal, that may take many years to get through the Palo Alto process. So allowing SDUs will  
32 increase their, our housing stock immediately and allow for maximum flexibility for both homeowners and  
33 renters. Let's make our neighborhoods about people, not parked cars. And two cars is the same size,  
34 parking two cars is the same size as a small ADU, and three cars is about the size of a small one-  
35 bedroom ADU. What do we want? A City that cares more about parked cars than people? Please don't  
36 let this issue drag on and get bogged down in the Palo Alto process, but show some leadership and that  
37 we can be nimble and iterative. Thank you.  
38

39 Vice-Chair Gardias: Thank you. So we have Randy Popp, followed by Diane Morin.  
40

41 Randy Popp: I am Randy Popp. I live at 375 Monroe in Palo Alto, and I've been a resident there for 22  
42 years. I'm an architect with a practice Downtown. I too am very concerned about the lack of housing in  
43 Palo Alto. I'd like to echo my support for the suggestions made by the Palo Alto Forward Leadership and  
44 appreciate the opportunity to add my comments to tonight's discussion. I came to this area 45 years ago  
45 and bought a house when my wife and I were first married. I was fortunate, and I'm able to live near  
46 my parents. I certainly could move away, but I love the community and my friends and being in close  
47 proximity to parents gives us all a sense of comfort as they age. My kids know their grandparents well  
48 and are often picked up from school or joined at sporting or other events. We are all a part of each  
49 other's lives, and I'm concerned my grandkids won't have the same opportunity. I'm a housing advocate.  
50 I'm aware of how far my kids' teachers travel to work each day. I know so many who struggle to find  
51 housing in this area, despite having what is considered a comfortable salary in almost any other area of  
52 the United States. My brother in Texas says clearly he will never be able to come back. In my career,  
53 I've helped design thousands of units of housing. My projects include more than 350 units built in Palo  
54 Alto within the last ten years. I love how vibrant these new communities are and the opportunities they  
55 create. So much of what is wonderful about Palo Alto is due to the incredible diversity we enjoy. I was  
56 thrilled to read the Council's Colleagues Memo regarding Accessory Dwelling Units and I'm hopeful we

1 can increase dramatically the number of these being proposed and built. Less than ten each year is so  
2 disappointing when there is so much available space and capacity for more. I've been approached many  
3 times in my practice and am often surprised at how difficult it is to get an ADU to work on sites that  
4 would appear to conform. The current regulations are too restrictive, and I'd like to encourage you to  
5 consider a few ideas which might create more momentum and increase the pace at which these really  
6 valuable, efficient and community-enhancing living spaces will be proposed. The number one barrier is  
7 lot size regulations. I prefer to see any conforming lot have the ability to include an ADU limited only by  
8 FAR. The result is no more than that of any other structure which would be allowed by right. I'm okay  
9 with ADUs being limited to a maximum size, but I really don't think that's necessary. Second, let's be  
10 real. People all over Palo Alto park in their driveways, right in their front setback. ADUs should only be  
11 required to have one additional parking space, and it should be allowed to be in the driveway, tandem if  
12 needed. Third, ADUs have the potential to create privacy issues if not properly designed. Let's set some  
13 rules for window placement but allow the structure to be placed anywhere an accessory structure would  
14 be allowed. In the side setback, it makes no difference, it makes it no different than a garage, but  
15 requiring more than 3 feet of separation creates huge planning constraints that often cannot be solved  
16 without the removal of trees or sacrifice of backyard open space. I'd be thrilled to see a few pre-  
17 approved plan types that people could just drop in, in a predictable way. I want to address the amnesty  
18 issue just briefly, because we have really great inspectors in Palo Alto. Safety, egress from bedrooms,  
19 smoke detectors, electrical and gas, all of these things are really critical for us to evaluate and make sure  
20 that we've incorporated into the design of ADUs, and it'll take us back to parking because many times the  
21 parking is not provided, but again the driveways are the right place. Thank you very much.

22  
23 Vice-Chair Gardias: Thank you. We have Diane Morin, followed by Debbie Baginsky.

24  
25 Diane Morin: Hello, I'm Dian Morin and I was thrilled to hear my name pronounced correctly just a little  
26 while ago. So I, I'm here speaking extemporaneous. I didn't think I was, think I was going to speak, but  
27 more and more I'm becoming passionate about this issue. So briefly, I am a 65 going on 66-year-old  
28 woman who at approximately 17 years ago when I had no money and was starting my business as an  
29 attorney in Palo Alto, literally little or no money, I inherited enough money to buy a house. I inherited  
30 \$250,000, and that almost paid for my house. And now compare that to what the situation is right now.  
31 I grew up in Europe and for me the concept that houses should be built around cars doesn't make much  
32 sense because houses should be built around people. So when I hear something such as 61 units since  
33 2002, I, you know, I wonder why there is such poor perspective, and then I realize historically that  
34 houses in this area since the 1950s, Southgate, where I live, was built in, my understanding is around  
35 1950 so they're built around cars. Well, that's not the situation any more. In Southgate, students park  
36 now in our neighborhood. When I was a kid, kids didn't have, when I was growing up, kids didn't have  
37 cars. Now, we have approximately 90 cars from students from Paly apparently on a daily basis. So again  
38 now let me go, when I bought my house, because I knew I needed the income, I got plans to build a  
39 second unit in my two-car garage. Because I'm a lawyer, I then realized that there were regulations and  
40 I should not build those plans. I still have them, and I still have a garage, and my car parks in the  
41 driveway like most other people's houses. Then looking at the reality, as Mr. Popp was saying, the reality  
42 is I know dozens of people who have secondary units. So the fair, the market in Palo Alto is high for  
43 secondary units of all kinds, garages, all sorts of houses, for students. So my understanding is that  
44 there's two issues why we should not have, why people complain about ADUs, three actually. The first is  
45 status quo. People want Palo Alto to resemble Palo Alto 1950s. Two or whatever, they want to preserve  
46 the value of their houses. I understand that, so would I. The second thing is cars and the third is  
47 privacy. Privacy, you know, I don't understand why a small ADU or an ADU is going to increase, or  
48 decrease privacy in such a way that it would affect people dramatically. And let's see. Again, I, so to  
49 turn to the present, without an ADU, I am as my brother said part of the genteel poor which is to say my,  
50 you know, my well off brother, which is to say I'm very house rich, thank you, Palo Alto, and I'm very  
51 cash poor. I have a, one 23-year-old daughter who's a journalist. There is no way I'm going to be able  
52 to preserve my house unless I come up with imaginative ways to preserve it. I ask you to consider these  
53 seniors and the diversity in our community and have ADUs and not cars. Thank you.

54  
55 Vice-Chair Gardias: Thank you. And the final speaker is Debbie Baginsky.

1 Debbie Baginsky: I wanted to thank you tonight for considering adding more ADUs in our community. I  
2 agree with the comments of all the previous speakers, and I just want to briefly share the story of my  
3 family, because I'm also here representing many of my friends who are in the exact same situation as our  
4 family. My mother moved here from Ohio five years ago in order to spend more time with her  
5 grandchildren and so that we would be able to take better care of her as she ages. But slowly as the  
6 rents have risen quite rapidly, it's almost impossible now to find a place for her to live and still be near  
7 us, so that we can take care of her and spend time with her. If we were able to convert our garage, it  
8 would be a fantastic solution for all of us, and she would be able to stay here instead of being forced to  
9 move back to Ohio. So thank you.

10  
11 Vice-Chair Gardias: Thank you.

12  
13 Chair Fine: Excellent. Thank you all. Thank you all for showing up and providing your comments. At  
14 this time, I think let's go for a round of questions, but let's please keep in mind that this may be more  
15 than one meeting despite what one of our speakers said. It will be, Jonathan is saying. And let's try to  
16 keep this also in a way that we can help staff help us, so if we can, you know, maybe identify a couple of  
17 constraints that we want to look into and what data points we might need for them, also look into the  
18 issue of grandfathering and then the issue of a public process. Let's just start with that. The first light I  
19 see is Commissioner Rosenblum.

20  
21 Commissioner Rosenblum: First, thanks to all the speakers. I think this is an incredibly important issue,  
22 and we've talked as the PTC many times about the housing crisis in Palo Alto, and very excited to have  
23 this issue come in front of us. I want to take to heart some of the comments by Mr. Levy and ask for  
24 some pieces of data that will help Council. So I think in particular is the number of units that would be  
25 possible under different scenarios. And so the primary inhibitor is lot size, and so to understand under  
26 different scenarios how many units would be eligible down to what I believe Mr. Popp made as a  
27 suggestion, so all conforming, not those that have to be above conforming, but all conforming lots have  
28 the ability within the restrictions of FAR and other zoning restrictions. Now, I understand that you  
29 wouldn't be able to model perhaps to what extent the parking requirements, etc., will get in the way, but  
30 certainly lot size. I think that that's an obvious scenario to explore.

31  
32 The second is you did a good study of neighboring communities, which I found really useful. The only  
33 neighboring community that has a recent enough but long enough history of having enacted changes to  
34 their restrictions that would be relevant for us seems to be Menlo Park, where you have some time after  
35 they've basically made it easier to develop these units. So I have two questions. First, what happened?  
36 Has the number of permits gone up? Has there been an explosion of cars in those neighborhoods? Have  
37 there been privacy concerns have increased? I think though that their time has been too short, so my  
38 ask would be to expand the look. This is a topic that's been going in communities across America, and so  
39 it would be great to understand those three major sources of concerns, particularly around cars. What  
40 happens when you get additional ADUs?

41  
42 And then the third area that I would love is a continuation of this discussion around Stefan Heck's  
43 discussion the other night. So there's clearly a decrease in dependence on cars among a certain  
44 generation. I'd also like to know, it seems to me there's been a demographic shift in Palo Alto. So family  
45 size has gotten smaller. When my parents were kids, the average family size was over three, and then I  
46 have two sisters. We were three. Everyone had three kids. Now everyone has two kids. It seems that  
47 there's been a decrease in family size and our community has aged. So you have a lot of houses that  
48 have older people or smaller families. And so the other thing I would ask to consider is what's happened  
49 to the ratio of people to floor space in Palo Alto. Is it the case that there's lots and lots of unused  
50 capacity that we're not considering? So those are my requests. Just in terms of trying to help Council,  
51 those are things that would have helped me grapple with this issue. Thank you.

52  
53 Chair Fine: Thank you, Commissioner Rosenblum. I don't see any other lights, but I hope you guys have  
54 thoughts. Commissioner Waldfoegel.

1 Commissioner Waldfogel: There it is. Thank you very much, and thank you to everyone who came and  
2 spoke on this topic. I'll try to get the microphone where you'll be able to hear. I would like to  
3 understand if lot size really is a controlling factor in the production of ADUs or SDUs or whatever the term  
4 is tonight, because we know that 2 percent of our zoned-eligible lots have legally permitted SDUs that  
5 suggests that maybe there's some other factor that is, that's controlling this. I distributed a memo that,  
6 looking at some economics, so I think it's, you know, I would encourage staff to look at whether different  
7 formats, whether it's standalone production of SDUs or some other format, converted garages or lily pad  
8 units or any other format has economics that would support accomplishing the goals.  
9

10 Because if it turns out that a standalone SDU costs several hundred thousand dollars, \$300,000,  
11 \$400,000 to produce, which may be the case, then that converts, that translates into a \$3,500, \$4,000 a  
12 month rent to, just to amortize the cost of producing that. So I think we just need, we need to be very  
13 careful and really understand what the costs are for producing units in each of these formats and what  
14 our objectives are.  
15

16 You know, the Comp Plan that the Colleagues Memo references, H-1.1.2 particularly references  
17 modifications that are affordable to very low, low or moderate income households. In Santa Clara  
18 County that would suggest housing costs somewhere between the 700 and \$2,000 a month range if  
19 we're going to meet that objective and that would limit the capital that could go into a unit, into  
20 producing that unit to potentially under \$100,000.  
21

22 So it may turn out that construction costs or difficulty of construction is the real factor rather than say lot  
23 size limits, but I just think we should understand what are the controlling factors that have historically  
24 restricted production.  
25

26 One other comment. We had a history of flag lots in Palo Alto. We discontinued the flag lot program at  
27 some time in the past. I think we should, I don't know the history of this. I think we should understand  
28 the history of flag lots, understand why we liked it at some time in the past, why we stopped liking it,  
29 and what the effect of flag lot production was. Again, I don't know that history, but it smells a little bit  
30 like this so I just think we should understand it.  
31

32 Chair Fine: Thank you. Commissioner Tanaka.  
33

34 Commissioner Tanaka: I also want to thank staff for bringing this forward and also members of the  
35 public who spent the time tonight to come to speak with us. I think it's a very important issue and it's a  
36 thing that would, could be an elegant solution to a lot of problems. One question, well not, kind of the  
37 area of questions I have for staff is really on page 5 around basements. So I think staff is, I think, wants  
38 us to have a discussion around this, but I'd love to hear staff's kind of maybe summary of some of the  
39 comments of why do we, because basements are below ground and neighbors really can't see it, what's  
40 the driver for being more restrictive on ADUs versus regular houses? So I think if staff could speak to  
41 that, that would be great, but this is I think a topic that I think the Commission here should talk about as  
42 well because it's something that staff has specifically asked us to address.  
43

44 Chair Fine: Thank you, Commissioner Tanaka. Vice-Chair Gardias.  
45

46 Vice-Chair Gardias: Thank you. So I'd like to just go back to this, what my colleague Rosenblum  
47 proposed about the data. I think it's a key, and then we're ready to have you spend some time just to  
48 analyze this and then just to come back to us with the data. And then once we're going to be doing this,  
49 please do this with some ranges so we know sensitivity and we can access it, assess it properly because,  
50 you know, now we're talking the, you know, I think that 8,000 is the, 8,100 is the floor. We've in some  
51 other municipalities 6,000 is the floor so pretty much there will be lots of discussion between 8,100 and  
52 6,000 square feet, so we would like to know sensitivity analysis, how many existing units we have that  
53 are nonconforming or what's existing or opportunity within each ranges, and then based on different  
54 analysis where you can come up with different numbers that would allow us just to know if we're going  
55 to just lower this by 500 square feet, what would be the impact from the population perspective, by  
56 1,000, what would be the other threshold and so forth. Thank you.

1  
2 Chair Fine: Commissioner Alcheck.  
3

4 Commissioner Alcheck: Thank you for the opportunity to discuss this. I think that, I'm thanking the City  
5 Council. I'd like to suggest that, or let me first let me provide some context. As a resident in Palo Alto,  
6 I'm a very strong supporter of increasing housing stock. As a member of this Planning Commission, we  
7 have a State mandated responsibility to figure out how to accommodate more housing through our  
8 Housing Element and, in conformance with our Housing Element. And I want to suggest that there's like  
9 a reference point here which is to, I want to suggest the word public benefit here to some extent.  
10 There's sort of a range, right. Do we oppose ADUs is on one side of this spectrum, and on the other side  
11 of the spectrum is do we actually as a City pay for them? I'm not just suggesting that the spectrum  
12 represents not allowing ADUs and allowing them at 450 square feet. I am suggesting that the spectrum  
13 of this conversation should start on one side opposing ADUS, and on the other side it should be should  
14 we set up a fund to create no interest loans for individuals who are willing to develop ADUs that would  
15 house individuals who can't afford to live in our community, below market rate available ADUs which is  
16 why I suggested the term public benefit.  
17

18 We've, there's multiple kinds of ADUs. There's the ones that don't affect the built environment. Well, I  
19 think that's a no brainer. My instruction to staff would be that we should explore reducing any  
20 restrictions on the development of ADUs that don't affect the built environment. I don't for the life of me  
21 cannot understand why our, why we wouldn't explore removing the component of the calculation where  
22 a basement part of an ADU would count towards the maximum ADU square footage. If we had, I don't  
23 support, I would encourage staff and I would encourage us as a group to consider no limit to the size of  
24 an ADU outside of the FAR for the site. And if there is floor area below grade that we wouldn't count as  
25 affecting the amount of housing that can be developed on a site, I don't know why we would, I would  
26 like to eliminate that rule, that calculation or I would suggest we eliminate that.  
27

28 I'm really thankful that we had so much input tonight. I think what we're hearing is there are  
29 multigenerational family needs, caregiving scenarios. I mean, there are so many good reasons, and then  
30 I think, you know, we talked about the idea of rental income to help sustain some of the homeowners.  
31 And those are all really great reasons to support ADUs, but I think one of the most important things that  
32 we have to talk about is not just whether or not there are good reasons, it's to balance whether, that the  
33 impacts of an ADU and the benefits, and I think we need to start weighing that. So the packet, the  
34 report, staff report sort of identified and so did this Colleagues Memo benefits and potential impacts.  
35 And I think what we need to do is we need to sort of determine well how important are the benefits to  
36 us, how important is it that we create more opportunities to live inside of this City.  
37

38 And I know it sounds kind of crazy, this concept of actually providing, you know, City funds to promote  
39 this growth, but I live in, I live very close to here and I'm a part of our neighborhood community  
40 association, and there's always emails where there's a teacher that's visiting or an individual that's visiting  
41 that would love to be able to rent some, I mean there's just so much need. I think one of the impacts  
42 was the effect on home values, and I sort of wondered if there, if, are we really losing value or are we, is  
43 the impact like a theoretical reduction in the growth of the value of the real estate? In the last two years  
44 we've seen an explosion. In just the last two years, we've seen an explosion in the home value. Do you  
45 mind if I go just another couple of minutes? We've seen an explosion of home values, and I'm, I would  
46 really like to encourage this discussion to avoid the notion that an impact here is a reduction in value. I  
47 think that we should really be thinking of the value of creating opportunities for people to live in our City.  
48

49 And I want to come back to the first point I made which was this idea of encouraging the development of  
50 ADUs, not just setting up rules for how they get built, but actually encouraging them by removing ... For  
51 example, could we create a process in Planning where if you're developing an ADU that a City employee,  
52 teacher, fireman, Planning staff would rent, the City would participate in the process, waive your  
53 application fees, speed the process up. I mean, I couldn't afford to put my in-laws within 200 miles. You  
54 know, there are lots of people here that would love to be able to house their in-laws. You've heard it,  
55 and people can't afford to do it, and these Accessory Dwelling Units are potentially an option for them,

1 but it's also an option for our local employees. And maybe if the City isn't ready to encourage all ADUs,  
2 maybe there's an avenue where we can encourage ADUs for City employees and for teachers.  
3

4 Last comment I want to make real quick. If our, if you could theoretically adjust the study so that we  
5 determined how many lots have available FAR in excess of 450 square feet, I think that would help us  
6 identify what the real opportunity is here. And so I think that might be an opportunity here to adjust the  
7 study. Yeah?  
8

9 Male: (inaudible)  
10

11 Commissioner Alcheck: I think we should adjust our study here so that we identify every lot that has  
12 more than 450 square feet of excess FAR, unused FAR because, you know, 450 square feet seems like a  
13 pretty reasonable Accessory Dwelling Unit. And I just want to echo, we had a couple of Commissioners  
14 talk about some of these restrictions. I would venture to suggest that I support not, no parking  
15 requirement for an ADU. If it was built as a part of the house, if the person who developed their home  
16 instead of using just 1,800 of their 3,000 square feet of FAR had built a 3,000 square foot home, they  
17 wouldn't have needed additional parking for that home, and they would have probably been able to  
18 house in a guest room their family member. So if now they're looking for an opportunity to sort of add a  
19 granny unit, I don't think that we should be imposing any parking requirement, and I think we should  
20 eliminate any restrictions that exceed our general philosophy on development. So that's it. Sorry.  
21

22 Chair Fine: Thank you. Commissioner Downing.  
23

24 Commissioner Downing: If it's okay, I'd actually kind of like to initiate a dialog with staff. Is that all  
25 right? So one question that I have for staff is in looking at the setback requirements, can you do a  
26 comparison for me between the setback requirements for the ADU versus the main house? Looking at  
27 this very roughly, I got the feeling like we were asking the ADUs to step further from the back fence than  
28 we would the main house. Is that the case?  
29

30 Amy French, Chief Planning Official: Amy French, Chief Planning Official. No, it's not a further  
31 requirement. What it is, is that you cannot have, you know, overnight accommodations within the rear  
32 setback and side setback of a lot. We allow garages, you know, non-habitable area and non-sleeping  
33 functions in the rear setback and side setback, but for a detached structure, but for a dwelling unit we  
34 don't allow those in the rear setback.  
35

36 Commissioner Downing: To be clear, I guess what I'm asking is what's the setback between the end of  
37 the house and the fence versus what's the setback we're asking for between the end of the ADU and the  
38 back fence. Is that different?  
39

40 Ms. French: No.  
41

42 Commissioner Downing: And then I think Commissioner Tanaka asked this question. I would really like  
43 to have an answer to this, but there seems to be a lot of kind of like anti-basement language in here, so I  
44 think we want to understand that. We want to understand why this is being called out, why this is being  
45 treated specially for ADUS. Please.  
46

47 Ms. French: The existing Code doesn't, it just says that you cannot, the basement area doesn't count as  
48 FAR for, floor area ratio for the entire site, but it does count towards the maximum dwelling unit size.  
49 And I understand what folks are saying, or a few of you at least are saying, is that why, why are we  
50 counting that. If we're not counting it as floor area, why are we counting it towards the maximum  
51 Second Dwelling Unit size? I don't have the answer to that question. I didn't write the Code, but that's  
52 the truth. It's in the Code that way.  
53

54 Commissioner Downing: It just seems like there's an extra penalty for adding a door with a lock, like  
55 that's just kind of how it reads. Then the next question I have is I really like the ideas that Commissioner  
56 Alcheck has presented. What can we do with our affordable housing funds? Can we put any of those



1 funds towards any kind of loan program or any other incentive that we can provide to people who want  
2 to build an ADU?

3  
4 Mr. Dennis: I'd have to go back and double check, but I don't believe that the affordable housing fund  
5 has that mechanism within it at this point, but I can double check and bring that back to the Commission  
6 for you.

7  
8 Commissioner Downing: It would be interesting for us to know if we can do something, what we can do,  
9 because this is one of the ways that we can least affect community character in terms of how it looks  
10 while still adding housing. This is one of the easiest slam dunk things we could possibly do for our  
11 community. So I think that's interesting to know. And then outside of the affordable housing fund, it  
12 would be interesting to know what can we invent, can we create something else that is not tied  
13 necessarily to those funds, but a different fund that we can use towards this purpose. I think that would  
14 be really interesting.

15  
16 And then another question that I have is with regard to the comment about prioritizing teachers, service  
17 workers, low wage works, things like that. Are there ways that we can do fast track permitting or  
18 allowing certain exceptions with the idea that somehow we put a deed restriction on that house, for  
19 example, that the ADU has to be rented out to below, as below market or it has to be rented out to City  
20 or School District employees. Is that legal? Can we do it?

21  
22 Cara Silver, Senior Assistant City Attorney: Cara Silver, Senior Assistant City Attorney. So we are  
23 examining some of those questions. There are a couple of different regulations that come into play in  
24 the housing arena. Of course, there are fair housing issues, and so looking at deed restricting for  
25 particular professions may have some fair housing concerns. With respect to deed restricting units in  
26 general, there's a State law called Costa-Hawkins which prevents the City from regulating rents.  
27 However, there is an important exception to that, number one, for density bonus units which we have  
28 applied in Palo Alto in the past, but also for units which have received subsidies from the City. So we're  
29 looking at how broad that subsidy exception is. Generally it comes in the form of, you know, a grant or a  
30 loan, but it also could be a waiver of fees or even a waiver of certain regulatory requirements. So it's a  
31 pretty significant issue that we're continuing to work on.

32  
33 Commissioner Downing: I'd say if we were to give people nominal loans, let's say we give them a loan of  
34 \$5 for their ADU, does that get us to a place where we can deed restrict an ADU for 10, 15 years as  
35 BMR?

36  
37 Ms. Silver: I wouldn't want to take that on as a test case. I think we're looking at legitimate loans here  
38 to qualify under that exception.

39  
40 Commissioner Downing: But that, but we can, is there a different mechanism we can use to enforce that  
41 besides a deed restriction? Like, for example, we do things like developer agreements where we require  
42 certain things. Could we do something like that for an ADU?

43  
44 Ms. Silver: Yes, I think that would be something we can certainly explore as well.

45  
46 Commissioner Alcheck: Can I make a suggestion, Commissioner Downing? Can I make a suggestion?  
47 Maybe we could explore a program by, an optional program by which they, you could obtain some funds  
48 to develop an ADU or a fast-track process if you agree to lease the ADU to a below market rate  
49 application. And then if that terminates, if you terminate that lease, then the funds you received, let's  
50 say they were no interest or something, could revert to a different rate. So it wouldn't necessarily  
51 require a deed restriction, but it could be an optional program that really encouraged a certain path, and  
52 then if you decided to change that path, then you'd have to pay that money back or you'd have to pay  
53 the interest on it or, you know, something like that. Something a little more optional, but just as  
54 encouraging.

1 Commissioner Downing: So I would add to that, I mean, we talked a little bit about several categories.  
2 We talked about the idea of service workers. We talked about the idea of people who work for the City,  
3 people who for the School District. I'll add to that category Section 8 housing. That would also be, if  
4 someone wanted to rent it out that way, I think that's something we would want to fast-track, we would  
5 want to encourage and assist, so we'd want to know about that as well. Let's see. Our ability to waive  
6 fees for ADUs. We've raised, we've waived fees for one-story overlays. How about waiving fees for ADU  
7 applications, can we do that?  
8

9 Ms. Silver: Yes, we can. The general fund would have to subsidize that fee waiver, but that's (crosstalk).

10  
11 Commissioner Downing: Subsidy, I like that. We're getting closer.  
12

13 Ms. French: I would just add that it's not an apples/apples just because a single-story overlay is a  
14 discretionary, legislative act actually, and ADUs do not require any discretionary, no conditional use  
15 permit, nothing. It's just building permits. So it's just a little different.  
16

17 Commissioner Downing: That's good. One more question that I had is I was thinking about the folks  
18 who live next to places where we're looking at as places to potentially put new housing sites. So people  
19 who live in areas that more or less border commercial districts. Like Cal. Ave., they border El Camino,  
20 they border parts of University Avenue and related areas. So a lot of these people don't have residential  
21 components in their, on the other side of their backyard. Their neighbors are not residents. Their  
22 neighbors are companies or multifamily housing or something like that. Is there a way that we can  
23 change, that we can at least change their setbacks such that they can put their ADU on the fence,  
24 because they don't have a resident on the other side to bother them?  
25

26 Jonathan Lait, Planning and Community Environment Assistant Director: I mean, I'll ...  
27

28 Ms. French: I think we're just ...  
29

30 Mr. Lait: I think the answer to a lot of your questions is probably yes. I mean, if that's the policy  
31 direction we're going, we can draft language and regulations to achieve that endgame. That is possible.  
32

33 Commissioner Downing: I mean, I know that that's a more complicated policy because you, there's a lot  
34 of zoning districts that you have to take into account. There's a lot of variations, so that's why I asked if  
35 it's possible to even articulate, but that was my thought because a lot of people are backing up onto like  
36 a supermarket on the other side, and it's like ...  
37

38 Ms. French: Anything is possible as long as the Building Code requirements are met with openings on  
39 property lines. That kind of thing you have to be careful about but certainly.  
40

41 Commissioner Downing: I've hogged this mike. I'm going to give it back to the Chair.  
42

43 Chair Fine: Thank you, Commissioner Downing. Thank you staff, and thank you to all the speakers. It's  
44 been really helpful. I think this is some, ADUs are some low hanging fruit that solves many problems at a  
45 low cost, and I really appreciate Commissioner Alcheck's comments that there's a range of public benefits  
46 we can provide here. At the same time, we have to consider where there may be public nuisances from  
47 these issues.  
48

49 It's interesting to me, my fellow Commissioners, we haven't yet gone into specific constraints, so thank  
50 you. I actually think that's helpful for staff at the moment. I'm trying to kind of form some idea of what  
51 may be helpful to staff, and the areas I've kind of written down so far. There's a range of programs or  
52 application questions we might have about, like such as a, if the affordable housing fund can support  
53 ADUs, if we can waive the fees. There's some questions around grandfathering we haven't gotten to yet,  
54 but I have a few I'd like staff to answer in a moment, and there's some questions around public outreach  
55 we haven't read, yet hit.  
56

1 In terms of the constraints, I'm kind of imagining a matrix to help us digest those changes. On one axis  
2 we might have a physical arrangement of ADUs, standalone, attached and internal. I think there's a bit  
3 of a feeling in the public and maybe on this Commission, but I'm happy to see what you guys think, that  
4 an internal ADU might be the most preferential to neighbors, to the public and to the City. Next to that  
5 you have an attached ADU and, you know, last step is kind of the standalone one. All of them should  
6 probably be encouraged in Palo Alto given our housing crisis, but I think they kind of have different  
7 constraints attached to them and there are different negative impacts to that neighborhood based on  
8 what type of ADU you have.  
9

10 So on the other axis there might be the various constraints and what costs and benefits they have. So  
11 for example, if we remove the parking requirement, you know, we could get 100 new units, but there  
12 would be an additional 50 cars in the streets. To I believe it was Steve Levy's point, it'd be awesome to  
13 see which of these constraints produces the most housing units, and then those might be the ones we  
14 zero-in on. Yes, I like the idea of pre-approved designs as well, another speaker mentioned that. That  
15 might be helpful for folks.  
16

17 And then I've just got a couple questions, first about grandfathering. We haven't really hit this yet.  
18 What happens if you're discovered to have a noncompliant ADU? Is it just that if you sell your property,  
19 you have to make it compliant or does the City ...  
20

21 Mr. Lait: So if it's noncompliant and you've got the permits for it, then that structure can be retained.  
22 When you sell it, it doesn't need to be removed or replaced. I think what we anticipate, though, is that  
23 there's probably a number of illegal conversions, and those are the ones where if the City becomes aware  
24 of those, we initiate our Code enforcement efforts to abate that illegal work.  
25

26 Chair Fine: So what does that abatement mean? Are you guys going to, like does the City go in there  
27 and like close off somebody's garage so they can't put their kids in there anymore?  
28

29 Mr. Lait: I mean, so if the, should we discover and usually we would be tipped off by a resident or  
30 something about this that there was a garage one day and the next day there was a family or people  
31 living there and you know this because night time, music, whatever is the ... So yeah, we'll go out there.  
32 We'll look at our permit records to see what was permitted and approved, and we will do an  
33 investigation. We'll go to the site and we'll see that, yep, it's no longer a place for cars. In fact, there's a  
34 bed and, you know, there's these cooking facilities, the mini fridge, the coffee pot and all these things.  
35 And so we will give a, we'll cite the property owner and give them a notice to, of timeframe to comply,  
36 either revert it back to the standard that was there or otherwise mitigate.  
37

38 Chair Fine: So I think as we look at this issue of grandfathering, it'd be interesting to see how often that  
39 happens, unless you guys know now.  
40

41 Mr. Lait: So I think, so the idea, so grandfathering is one thing.  
42

43 Chair Fine: Or making legal.  
44

45 Mr. Lait: And making legal these illegal conversions is another topic, and one that, yeah, we'd want to  
46 think about how we would do that. There's a lot of sensitivity, I would say, on sort of both sides of that  
47 issue.  
48

49 Chair Fine: And then my next question around this is what would staff recommend in terms of providing  
50 amnesty for some of these (crosstalk).  
51

52 Mr. Lait: I don't think we're prepared today to talk about what we would prepare or recommend in terms  
53 of an amnesty program. I think there are some different options out there. Some other cities have done  
54 this. You know, I think the first and foremost thing that would be important if one were to proceed along  
55 those lines are life and safety issues, and so making sure there was compliance with the basic Fire,  
56 Building and Safety Codes, and then you can begin to have a conversation about what else might be

1 allowed to be modified or maybe not be consistent with the Code. As Amy was noting earlier to an  
2 earlier question, we do allow accessory structures like a garage to be located at different places on the  
3 property than we do a residence. And so if you're converting your garage, then you're either up against  
4 the property line or you've got an issue that's hard to mitigate.  
5

6 Chair Fine: So I think we all acknowledge that there is obvious life and safety issues, and an  
7 administrative review for that. I think it'd be very helpful if staff would come back to us about what  
8 some other California cities have done here just to kind of get a bit of a bearing on what the different  
9 processes are. Something that comes to mind for me is if we are trying to have people come forward  
10 with their illegal units and make them legal and conforming, we don't want essentially the legislative jaws  
11 to clamp down on them, so maybe, you know, there's something like come forward and, you know, the  
12 City comes out and says you've got to fix these three things and you've got two years to do it. We don't  
13 want them just coming forward and be like it's going to cost me that much, I ain't doing it. So those are  
14 my comments for the moment. Let's, I think we might have another round of comments from  
15 Commissioners, and then maybe let's try to give staff another couple of directions. I think we've given  
16 them many helpful ones so far. Commissioner Alcheck.  
17

18 Commissioner Alcheck: I just want to add one of the keys to modifying our evaluation of which units,  
19 which parcels have over 450 square feet of unused FAR in my mind is to sort of, and I really hope we can  
20 accomplish this before the next study session. I don't know that it's that easy to accomplish. But if we  
21 had a map that showed that, and for example, the map showed that 99 percent of the parcels in the  
22 Downtown district didn't have that excess, unused square footage, I think the discussion about relaxing  
23 the parking requirements could be had with less tension. I know that suggesting that we eliminate  
24 parking requirements for ADUs in some residential areas could be perceived as like an unfathomable  
25 compromise, but if the likelihood of an ADU being developed in an area where parking is really difficult is  
26 really minimal, and I don't know that is, but I'm just saying if the, if that study or evaluation shows that  
27 we're really not talking about a lot of opportunity for ADUs in Downtown. We're really seeing them in,  
28 you know, in areas where parking isn't an issue, then maybe that discussion of relaxing parking  
29 standards, we can have that without so much aggravation.  
30

31 And I think one of the goals that I hope can be accomplished in the study session is that we don't, we  
32 explore really all the options without sort of being scared into thinking that it's going to ruin everything,  
33 that it's going to ruin our neighborhoods because the parking or the noise impacts are going to be great.  
34 And so I almost wonder if we should, that identifying which parcels are not in excess of, don't have any  
35 excess square footage, are not in excess of 450 square feet can also potentially inform a discussion about  
36 whether bonus FAR could be allotted.  
37

38 You know, again I think it's a very complicated discussion, this below market rate restriction opportunity,  
39 but maybe there is another incentive to encourage City employee housing or below market rate housing  
40 by offering some sort of below, bonus for, FAR bonus as an incentive. So I'm sure that's going to be like  
41 the most unpopular suggestion of the night, but I'm only putting it out there to sort of create this  
42 spectrum of opportunity for the discussion. I'm not necessarily endorsing that idea, but I want us to  
43 explore as wide a berth of options and then also have as much, and I have a feeling actually that staff  
44 probably has some ideas of other things we could look into that could help reduce or help increase the  
45 knowledge and awareness of this issue, so that we don't create too much anxiety as we continue to  
46 explore it. So, you know, that was my last piece.  
47

48 Chair Fine: Thank you. Commissioner Rosenblum.  
49

50 Commissioner Rosenblum: So just a simple question to staff. Do you already have ideas on what the  
51 major changes would be that would encourage the building of more ADUs? I think it's been pointed out,  
52 and I think Commissioner Waldfoegel did a really nice job examining the underlying economic costs of  
53 building additional detached or a semi-attached unit, but curious from your perspective. This is just for  
54 study session purposes, but certainly you're the experts in planning and have observed other cities.  
55 What to you are the most obvious levers to pull if the goal is to try to increase the variety, diversity of  
56 particularly lower-priced housing stock in this City?

1 Mr. Lait: I thought you were going to go down a different, I thought you were going to stay on the ADU,  
2 and then you threw in the affordable housing piece at the end there. I mean, and so affordable ...  
3

4 Commissioner Rosenblum: Sorry. I want to make sure that I'm not being overly technical here, because  
5 it, affordable housing is, has meaning. I mean to, if our goal is to increase the number and diversity of  
6 units in the City that might span a variety of housing cost levels, I mean really how do we increase the  
7 supply and what do you think are the most effective and palatable levers that you would be considering  
8 as staff prior to making recommendations?  
9

10 Mr. Lait: Well, so I guess the first thing is I would look to our Housing Element, because I believe that  
11 we've gone through that exercise to a fair degree to talk about what the regional housing needs or  
12 expectations are in terms of what the City is capable of producing over a period of time. And so, and  
13 that includes the, a diversity of housing types, and I think there's an ongoing conversation that is  
14 beginning ...  
15

16 Commissioner Rosenblum: Sorry. Just want to make sure I, because I might have gone back the other  
17 way. I'm specifically talking about SDUs.  
18

19 Mr. Lait: Thank you.  
20

21 Commissioner Rosenblum: So it's really talking about this topic, not just in general housing stock.  
22

23 Mr. Lait: Very good. So SDUs as a subset of that conversation then. You know, we've just started, so  
24 we got the Colleagues Memo and we've put together the staff report about, we started about five weeks  
25 ago, and I think we're still in the process of developing our, own thoughts which we will of course share  
26 with the Commission when we come back with some recommendations. Anecdotally, we hear  
27 conversations at the public counter, and we know that there's some tension when it comes to the parking  
28 requirements, that the additional ADU parking requirements can be challenging to put on a site because  
29 they have to be outside of the setbacks. And so when you've got an existing home and you're trying to  
30 bring that other unit in, that is one of the most, what I've heard anecdotally, constraining aspects of it.  
31 Sometimes there's a tree, a redwood tree or a heritage tree that's located in the area, and so there's  
32 conversations about that. There's only, when homes are built and they're built in a way that they've  
33 been, in the buildable area there's not a lot land, of land left over to place that living quarters, that  
34 additional living quarters without encroaching into the setbacks which then creates the other challenges.  
35 So I mean, I think the big ones that I've heard, and I would look to Amy who's got a lot more years of  
36 experience here, parking, the setback requirements, and sometimes we're dealing with the tree issue.  
37 But, Amy, is there any more that you can elaborate on that?  
38

39 Ms. French: I would just say the lot size. We have this requirement that you have to have a much larger  
40 lot than a standard or minimum or even above minimum, so it gets, it definitely throws a lot of parcels off  
41 the list of possible properties for Second Dwelling Units.  
42

43 Mr. Lait: And the comment's come up before. What's interesting is we still, despite the 15,000 or so R-1  
44 lots that we have and the 3,000 or so that are available, we're still only tapping a small percentage even  
45 of those that meet the (inaudible). That's something that we're hoping to get a little bit more information  
46 about.  
47

48 Ms. French: I think trying to have the perfect storm of the right size, the available parking area and all of  
49 that, it's just hard to, for those 3,000 parcels to have the right mix. If there are more parcels that could  
50 participate, they might have more options.  
51

52 Mr. Dennis: I would add too, you mentioned the term palatable. I don't know if that's something staff  
53 should be pursuing, whether something is palatable or not. I think that's a decision that the Commission  
54 and the Council will ultimately make, so we're not necessarily looking at it through that lens. We're what  
55 Amy and Jon just discussed is essentially the discussion from page 6 and 7 in the staff report related to  
56 constraints, but I just wanted to point that aspect of it out.

1 Chair Fine: Quick comment?  
2

3 Commissioner Waldfogel: Thank you. Really just a quick response to things that I'm hearing tonight. I  
4 think we're really talking about three very different things within this SDU framework. One is low cost  
5 housing, and I think we have to put a cost effectivity or cost effectiveness metric around low cost  
6 housing. I mean if we're, especially if we're going to spend City money on it, we should know if this is  
7 the most cost effective way to produce housing units. So that's something that I would like to see you  
8 guys explore.  
9

10 Second thing is we're talking about income producing units, and I think, I feel very strongly that income  
11 producing units within neighborhoods must be low impact. I mean, how much effort are we willing to  
12 take on to produce \$3,500 a month rentals or Airbnbs? I think we need to consider that. Then the third  
13 thing we're talking about is family and caregiver housing, and there I think we need some flexibility, but  
14 we still have to look at impacts because none of those are permanent conditions. And when we build  
15 something, it probably exists for 50 years even though that family caregiver use may only have a five or  
16 ten-year duration. So I think these are three very different things that we have to be considering and  
17 framing.  
18

19 Chair Fine: Thank you. Commissioner Downing, I think you were after that.  
20

21 Commissioner Downing: I also wanted to make another comment. We were talking about standard and  
22 substandard lots. If you look at our Code, we say 35 percent above the standard lot for each of the  
23 designations, so 35 percent above 6,000 and 35 percent about 7,000 and 8,000, and even 20,000. So I  
24 think we asked kind of for an idea of numbers and eligible, but I would posit not just getting rid of the  
25 plus-35 percent requirement, but just making it a flat minimum 6,000 lot size. If you can have an ADU  
26 on a 6,000 foot lot, you can certainly have one on an 8,000 foot lot. It does not have to be 35 percent  
27 bigger. Does that make sense?  
28

29 I think that the other thing I would like to kind of see maybe in our next study session, I did send  
30 around, I sent to staff and I think staff shared with PTC, kind of a framework document of various  
31 different proposals that we could take, so it kind of offers you a step to, kind of way of thinking about  
32 things. Like for parking, like we could do something really small, like we could eliminate just one space  
33 or we can make other programs like we can say you don't need any spaces if, for example, you live in an  
34 RPP district, so there's a lot of different proposals for each of these categories.  
35

36 And I would kind of, I would push us in our next study session to get nitty-gritty with that and to add  
37 ideas to that, because what I would like to have Council take a look at is kind of go down that list and  
38 say we can take this, we can take this, this is where we stop. But it would really help frame up our  
39 discussion and theirs, because I think some of these things are, I think are stupid easy, right, and then  
40 other of these things will require controversy even though they may be an otherwise controversial topic  
41 like parking. Like, I think the idea that you don't need more parking spaces if you live in an RPP district,  
42 then we just don't give you any more permits is probably stupid easy. The idea of doing that in other  
43 districts, I think is harder, and so I'd really like to break that out for the Council so that they can make  
44 incremental decisions in incremental steps and we can at least do the easy, slam dunk things if we're not  
45 going to do others.  
46

47 Chair Fine: Thank you, Commissioner Downing. Vice-Chair Gardias.  
48

49 Vice-Chair Gardias: Thank you. So when you're going to work on your study, there's a couple of items I  
50 would like to consider. That may be hard to do, I just would like to ask you to see if you can look into  
51 the population of the existing units that are being rented out, and of course some of them are rented out  
52 illegally, so that probably will not be possible to count, but some of them, there must be some  
53 information stored somewhere that this address is just of some separate family or some separate name.  
54 So I would be interested in this information to understand how many of those are rented out to other  
55 parties versus a family which probably when the unit is occupied, right, there was no information about  
56 any rent because this is within the family. And then also when you're going to look into this, that may be

1 based on some maybe sample or some fragmented area, because I know it may be hard to do this for  
2 the entire City. But just give us a flavor. We would like to understand this.  
3

4 But also take a look at this and help us to understand the number of the houses that are being owned by  
5 the young population versus older population. The needs may be different. In my neighborhood at least  
6 there's, there are large houses that are being owned by the very young professional, and they tend to  
7 live alone in those houses, and it seems to me that they have no needs of just bringing larger family or  
8 maybe other renting out the secondary unit. But in terms of older population, there may be a different  
9 need because sometimes they need their family, they bring their family and the family lives with them.  
10

11 So when you're going to look into this, please try to slice it by younger versus older. We'd be interested  
12 to see prospectively how many of those we can truly gain, right. Because if we're going to relax this  
13 zoning, but then there will be increasing number of the younger population. The true gain may not truly  
14 be, may not truly materialize prospectively.  
15

16 Mr. Dennis: Thank you for those comments. I, just in speaking to my two colleagues, that might be  
17 very, very difficult information to glean, but we'll do what we can, but our initial reaction was we're not  
18 sure we can find it.  
19

20 Vice-Chair Gardias: I truly understand it, so that's pretty much some assessment, right, based on some  
21 sample, right, so we can get the flavor.  
22

23 Mr. Dennis: Thank you.  
24

25 Vice-Chair Gardias: Thanks.  
26

27 Chair Fine: Just to add what the Vice-Chair just said. I think what he's getting at is that who will not be  
28 building an ADU. And it might be by the number of folks in the household, it might be the age of owner,  
29 and there's a couple of other things. So it'd be nice to see a couple of cuts of data about that, about, a  
30 lot of it might come from census just generally, right, when people have bought their home, things like  
31 that. Commissioner Tanaka.  
32

33 Commissioner Tanaka: Thanks. So, I mean, I'm largely in agreement with most of my fellow  
34 Commissioners in terms of more data is better, because it'll help us make better decisions versus just  
35 guessing. So I think the ones that Commissioner Rosenblum said and others make a lot of sense as well  
36 as some of the speakers earlier said that try to understand how do each of these restrictions affect the  
37 amount of ADUs that we can do. One other thought I have besides the issue I brought up about the  
38 basement earlier is right now I think in R-1 below-ground parking is actually counted towards your floor  
39 area ratio. Is that correct?  
40

41 Ms. French: The basement is not counted towards floor area ratio. It's ...  
42

43 Commissioner Tanaka: No, like parking for cars. So if it's living space, it doesn't count. But if it's cars,  
44 then it does count. Is that correct?  
45

46 Ms. French: Well, we don't allow basements in R-1 for parking of cars.  
47

48 Commissioner Tanaka: For parking, correct?  
49

50 Ms. French: Yeah, we don't allow for you to park (crosstalk).  
51

52 Commissioner Tanaka: So I guess I, that's one thing that I think would be interesting to study, is why,  
53 right. Because, I mean, basements are one of, the nice thing about basements is that it's kind of visually  
54 invisible to the neighbors, so the impact is not as big as let's say a two-story building. And so and one  
55 way to make the ADUs work without having a big impact on the surrounding neighborhood is to actually  
56 provide parking on the site, and one way to provide parking on a site is actually to actually allow below-

1 grade parking. And so I think that's something that might help make the solution possible because I  
2 think my fellow Commissioner here mentioned that, you know, I think of number of units, number of  
3 parcels that actually build ADUs is actually quite small, like 2 percent. I forgot who was mentioning that,  
4 but so there's other factors restricting the amount of ADUs being built, and I think, I have a guess that  
5 could be parking, but I don't know. But I think that this is one knob we should explore in terms of really  
6 if you want to use this as a possible solution, understanding first of all why do we have the restriction on  
7 parking below grade for R-1s. Well, it's encouraged for many other uses, and then I think the second  
8 thing is could this help alleviate some of the reasons why we don't have ADUs.  
9

10 Ms. French: I would say there's definitely history on why below-grade parking in the R-1 was eliminated,  
11 and it had to do with kind of the hazardous factor, backing up a ramp onto a sidewalk.  
12

13 Commissioner Tanaka: I completely get that, but I mean there's also been a lot of new technologies out  
14 there, carless and other things, that I've seen kind of eliminate that rationale. But I think since we're  
15 exploring the range of possibilities here, I think that's something that would be interesting to explore  
16 because, I mean, I think the impact, I think the issue with ADUs is that if it pushes all the parking onto  
17 the street, people are going to be pretty upset about that, right. But if you loosen, if you basically allow  
18 the parking still say on lot, maybe below grade where it's not visible to a lot of people and the impacts  
19 are very, really minimal, it could solve a lot of problems.  
20

21 Ms. French: I think I would add that in our next annual Planning Codes update, we've got on our Tier 2  
22 matrix list talking about the parking technologies and the futures of parking, so that might be a good  
23 place to talk about that.  
24

25 Chair Fine: That'd be helpful. Commissioner Alcheck. Any other comments, anyone? So I hope this has  
26 been helpful to staff. I've got a couple more comments myself. I would definitely encourage us as a  
27 Commission to kind of look into the grandfathering issue. I don't think we really got our hands around  
28 that tonight. So if you just want to do some research on your own, see what's happened with regards to  
29 this, and if staff has insight, you know, like don't wait for the staff report. Shoot us an email if you want,  
30 right. If you find what some city has done or some ordinance or some history, that'd be helpful for us to  
31 look at beforehand.  
32

33 And then I just want to touch on the one other thing we haven't talked about which is public outreach. I  
34 think as we get deeper into this it will be helpful to do some public outreach here at the Commission. We  
35 want to get some of the issues and questions aired before they go to Council, if they go to Council, these  
36 recommendations. And if staff has any other recommendations about a public outreach process, love to  
37 hear from you.  
38

39 Mr. Dennis: And we're happy to bring some forward, but in our conversations internally we thought that  
40 there might be usefulness in having some sort of special public meeting that's sponsored by this body  
41 related to this, something along those lines. We've also considered maybe some online tools that could  
42 help gather some of that information, not unlike what we've done with the Comp Plan Update. And, you  
43 know, a third is if there's any particular members of the Commission who have a particular interest in  
44 this, we'd welcome speaking with them and seeing if they've got any other ways to look at outreach  
45 possibilities.  
46

47 Chair Fine: That sounds good. If my colleagues haven't looked at the digital commenter for the Comp  
48 Plan, it's really, really great. There's a lot of awesome ways to structure questions and kind of nest them  
49 and get public feedback. It seems to have been really successful, so let's talk about that some more.  
50 Anything else before we close this item? All right, this item's closed. Thank you all so much.  
51

52 Mr. Dennis: Thank you so much.  
53

54 Chair Fine: Let's just take five quick minutes and then start again at 9:30 on the last issue. Okay to go  
55 later tonight everyone? Let's do it. Take five minutes.  
56



1 [The Commission moved to Item Number 4.]  
2

3 **Commission Action:** Commissioners provided comments and recommendations, no action taken.  
4

5 **Public Hearing**

6 **3.** The Planning and Transportation Commission will hold a Public Hearing and consider  
7 recommending two Ordinances to the City Council: An Ordinance that amends the Municipal Code  
8 regulations related to Hazardous Materials Use, Storage and Handling in the Office, Research and  
9 Manufacturing Zoning Districts and an Ordinance amortizing uses at Communications & Power  
10 Industries LLC (CPI), 607-811 Hansen Way. Amendments to the Municipal Code include the following  
11 sections:

- 12
- 13 a. Chapter 18.04 (Definitions) Section 18.04.030 (66) (A) (B) (C) and (127.7);
  - 14 b. Chapter 18.20 Office, Research, and Manufacturing [MOR, ROLM, RP and GM] Section  
15 18.20.030 (Land Uses) Table 1 (Industrial/Manufacturing District Land Uses); Section  
16 18.20.040 sub sections (b) and (c) (Site Development Standards); and Section  
17 18.20.050 (Performance Criteria)
  - 18 c. Chapter 18.23 (Performance Criteria for Multiple Family, Commercial, Manufacturing and  
19 Planned Community Districts) Section 18.23.100 (Hazardous Materials) subsection (B)
  - 20 d. Chapter 18.70 (Nonconforming Uses and Noncomplying Facilities) Section 18.70.020  
21 through Section 18.70.100, including Section 18.70.070 (Required Termination)
  - 22 e. Chapter 17.16 (Hazardous Materials Management Plan) Section 17.16.010 (Hazardous  
23 Materials Management Plan) and
  - 24 f. Chapter 17.20 (Hazardous Materials Inventory) Section 17.20.020 (Information required).  
25

26 [The Commission heard this item following Item Number 1.]  
27

28 Chair Fine: So this is a public hearing to consider recommending an Ordinance to the City Council that  
29 amends the Municipal Code regulations related to hazardous materials use, storage and handling in the  
30 Office, Research and Manufacturing Zoning Districts and an Ordinance regarding amortization of uses at  
31 Communications and Power Industries. And the staff report has all the Codes that are affected here. I'd  
32 also like to remember, remind the members of the public, if you'd like to speak to an item, please provide  
33 a card up to us at the front, and we will listen to you. I believe staff has a report here.  
34

35 Commissioner Downing: Chair, if I may? A point of privilege. I will need to step out for this item. I am  
36 within 500 feet of this site, so it would be improper for me to participate tonight.  
37

38 Chair Fine: Thank you for reminding me. Let's go through recusals and disclosures.  
39

40 Commissioner Tanaka: The City Attorney also mentioned to me that my house is too close, so same  
41 situation.  
42

43 Chair Fine: Vice-Chair.  
44

45 Vice-Chair Gardias: So before, I had, like maybe some other Commissioners, I had a conversation with  
46 the representation from CPI that's present here on the floor, so I would like to disclose this item. Thank  
47 you.  
48

49 Chair Fine: I also had a discussion with Canyon Snow, the consultant for CPI, and I had an email  
50 discussion with Art Liberman and Markus Fromherz from the Barron Park Association, but nothing that's  
51 not in the public record. Commissioner Waldfogel.  
52

53 Commissioner Waldfogel: I also had a discussion with the representatives from CPI.  
54

1 Commissioner Alcheck: Myself as well, Mike Alcheck. As representatives, Mr. Snow contacted me in an  
2 effort to discuss any questions I might have about the agenda item, and we had a discussion about it,  
3 but most of the information we covered, all of the information we covered was in the packet.  
4

5 Chair Fine: Excellent. Let's move to the staff report.  
6

7 Hillary Gitelman, Planning and Community Environment Director: Thank you, Mr. Chair and  
8 Commissioners. Hillary Gitelman, the Planning Director. And I want to take a minute to introduce the  
9 folks who are with me here this evening. Special thanks to Rod Jeung, on my right, who is from the  
10 consulting firm AECOM, is working for the City and prepared the technical memos that supplement the  
11 staff report. So he's here to bail me out if you have questions on that material. Helping him bail me out  
12 is Meg Monroe on our staff who's been shepherding this item for years now. And representatives of the  
13 Palo Alto Fire Department. In addition, Molly Stump, the City Attorney, is here. I think I warrant sort of  
14 a personal presence from the City Attorney herself because I'm at great risk of getting myself into trouble  
15 or something. I don't know.  
16

17 But we're here to talk about two separate Ordinances which were in your packet, related to the issue of  
18 hazardous materials in Palo Alto. So there's been a long history and this is kind of a technical matter.  
19 The Commission hasn't really been involved in this, so I'm going to take a little bit more time than usual  
20 to go through a staff presentation. We're going to share some background with you about how we got to  
21 where we are today, try and summarize the two Ordinances, one of which is quite complicated, talk  
22 about the next steps. As I indicated, Rod is here to help with some of the technical information.  
23

24 As you know from the findings that are included in each of the draft Ordinances, the objectives of this  
25 whole exercise relate to maintaining health, safety and welfare in Palo Alto; instituting regulations related  
26 to a class of hazardous materials uses that are not currently regulated by the City; and providing for  
27 termination of nonconforming uses if and when the proposed Ordinance should be adopted. So we had a  
28 long discussion with the Council in November and received very specific direction from them to proceed  
29 with the two Ordinances you have this evening. They also directed us simultaneously to explore a  
30 potential for agreement between the parties. And I'll go into that a little bit at the end of this meeting  
31 which we hope will focus on the Ordinances, but I wanted you to be aware that discussions are under  
32 way, and I think we indicate that in our staff report.  
33

34 So just in terms of the chronology. This goes back to 2006 when CPI plating shop activities were  
35 consolidated in Palo Alto, so the intensity of that use on the CPI site increased. And then there were a  
36 series of hazardous materials releases that just raised a level of concern in the community and down here  
37 at City Hall. And I, we go through a number of years here in which the zoning, City zoning was amended  
38 in 2007 to address some of the concerns that had been raised. There were amortization studies  
39 prepared in 2011 and '12 which I'll talk about further in a moment. What, what's not shown really on  
40 this chronology is some of the risk assessments and analysis that AECOM has done for us in the last few  
41 years. And we can answer some questions about that if you like.  
42

43 So first let me summarize the Hazardous Materials Ordinance. It effectively defines three different tiers  
44 of hazardous materials uses and creates requirements that are specific to each. Some of these already  
45 exist in the Code and some of them are new, but this idea that there are tiers is a new concept that we're  
46 introducing into the Ordinance. It also defines sensitive receptors, and it establishes a minimum distance  
47 between the middle tier of hazardous materials uses and the sensitive receptors. Then at the Council's  
48 direction, it prohibits these, the third tier of hazardous materials uses, and I'll talk about what that is in a  
49 minute. And then it addresses this whole question of amortizing nonconforming uses. Finally, it includes  
50 some conforming amendments to the City's Fire Code. Most of the changes we're talking about are in  
51 the Zoning Ordinance.  
52

53 So this is a map of the City's Industrial Zoning Districts where the new Ordinance would apply.  
54 Effectively we're amending that section of the Code that applies to these parts of town. There is an  
55 amendment to the nonconforming use provisions, a minor amendment to the nonconforming use sections  
56 that applies Citywide, but most of the changes are, just affect the shaded districts here. So in our

1 existing Municipal Code, there are currently two different groups or now we're calling them tiers of  
2 hazardous materials uses that are regulated. The first one, which now we're calling Tier 1, involve  
3 hazardous materials quantities above what we refer to as the CUPA thresholds. Now, those thresholds  
4 are established in State law, and CUPA uses are generally regulated by the County. Although, in Palo  
5 Alto the Palo Alto Fire Department plays a role in reviewing and inspecting uses that exceed the CUPA  
6 threshold. And there are requirements that the State applies and that we apply to this first tier of uses  
7 which really are not proposed to change in the new Ordinance. So the third tier, so we're bookending  
8 here, the first tier is the lowest tier. The highest tier is Tier 3. This is already in our Code as well. This  
9 was added to the Code in 2007. This is the tier that exceeds the Title 19 threshold or what we call the  
10 CalARP thresholds. Currently our Municipal Code prohibits Tier 3 uses within 300 feet of residences or  
11 Residential Zoning Districts. We are now in this Ordinance proposing that these uses be prohibited  
12 everywhere in Palo Alto. I should say that we are not aware, there are no Tier 3 uses currently in Palo  
13 Alto.  
14

15 So the main, you know, sort of the central portion of the Zoning Ordinance is to create this middle tier or  
16 Tier 2 which is defined as hazardous materials uses involving toxic or highly toxic materials in quantities  
17 that are above the CUPA threshold and below the Title 19 or the CalARP threshold. So it's between the  
18 Tier 1 and Tier 3 in terms of quantities when it involves toxic and highly toxic materials, and those are  
19 defined in the State Fire Code. The idea that is presented in the Ordinance is to prohibit, similar to the  
20 current regulations for Tier 3 uses, the new Ordinance would prohibit Tier 2 uses within 300 feet of  
21 sensitive receptors and Residential Zoning Districts. There are also some other requirements outside of  
22 that 300-foot limit. These uses require a use permit. There's some notice requirements and other things  
23 that would apply. The bottom line is that there are 11 Tier 2 uses that would be regulated for the first  
24 time under this new Ordinance. And we have a map showing the 11 uses. They're in the pink with the  
25 little green dotted lines around them. The green dotted lines show the 300-foot minimum distance  
26 around each of the Tier 2 uses. The map also shows the sensitive receptors and Residential Zoning  
27 Districts that are referred to in the Ordinance. And just to be specific, the sensitive receptors are shown  
28 on the screen here. Effectively they are land uses, I'm sorry, was there a question?  
29

30 Male: (inaudible)  
31

32 Ms. Gitelman: I don't really see the yellow there, but most of the kind of lightly shaded ...  
33

34 Chair Fine: The question is if yellow is housing, and I think it is. Yes.  
35

36 Male: Just making sure.  
37

38 Male: So residential (inaudible).  
39

40 Ms. Gitelman: Yeah. You can see it on the hard copy of the slide. It is in fact yellow. On the screen, it  
41 doesn't look yellow. Yes.  
42

43 So I have a couple slides that compare the current requirements to the proposed requirements. This  
44 shows that under the current Ordinance, there's a distance requirement for noticing that affects the Tier  
45 1 and Tier 3 uses in terms of where uses are not permitted. The Tier 3 uses are not permitted within  
46 300 feet of sensitive receptors. And then in the proposed Ordinance, the new distance requirement, the  
47 notice requirements are essentially the same, but in the last column there, the not permitted column, Tier  
48 2 facilities are not permitted within 300 feet of sensitive receptors, and Tier 3 facilities are just not  
49 permitted.  
50

51 So the Commission is probably familiar with the concept of nonconforming uses. The Code defines  
52 nonconforming uses as uses that were legal at the time they were established, but they are no longer in  
53 conformance with the City's Zoning Ordinance. And the Code effectively prohibits nonconforming uses  
54 from being expanded or intensified. The, these rules about nonconforming uses would apply to those 11  
55 businesses we talked about. I'm sorry. Not to all 11 of them, to any of the 11 that are within the  
56 minimum 300-foot distance, because those are the uses that would become legal and nonconforming.

1 So this map kind of shows the bottom line. Again, you see the pink Tier 2 uses, the green dotted line  
2 around those uses, and then really there are only 3 of the 11 where the green dotted line overlaps the  
3 Residential Zoning Districts or the sensitive receptors, and those are the three uses at CPI that would  
4 become legal and nonconforming under this Ordinance. Here's just an aerial map of CPI pointing out  
5 where the plating shop use is in Building 2. Building 2 is a large building, but the plating shop is just a  
6 portion of it. You see just how large the CPI site is as well.  
7

8 So generally nonconforming uses have the right to remain in place, but there is an opportunity to phase  
9 them out if you provide compensation or if you provide a reasonable amortization period that's  
10 proportional to the investment that was made in the facility. So our Code already establishes some  
11 termination dates for a bunch of different uses and provides a minimum of 15 years for businesses or  
12 uses to be amortized. The proposed Ordinance proposed, proposes a change to that 15-year minimum  
13 to say that it could be less if there's a site-specific amortization study that justifies a lesser period.  
14

15 And there were two site-specific amortization studies prepared for the CPI facility. The first one was  
16 specific to the plating shop in Building 2. It was prepared by CB Richard Ellis at the direction of the City,  
17 and it concluded that at that time the amortization period based on the value of the investment that had  
18 been made in the facility was 15 years or extended to the year 2026. CPI disputed the results of that  
19 study and did their own study in 2012. The study really looks at the whole facility and its operations and  
20 concluded that the plating shop could not be separated from the rest of the facility, and if you had to  
21 amortize the whole facility, an appropriate amortization period would extend out 40 years or more to,  
22 and we said to the year 2052.  
23

24 So Rod and his folks reviewed both of these studies and found them to be basically sound in terms of the  
25 scope of their endeavor. There were a few nuances that we've noted in the staff report and on this slide.  
26 And effectively the approach we're taking in the Ordinance is to accept both of these studies at face  
27 value. So we've used both of them in preparation of the Ordinance which requires that the plating shop  
28 use would have to be relocated at least 300 feet, so that minimum distance that we've established in the  
29 Ordinance, within the next, now it's 10 years because 5 years have passed, so by the year 2026. And  
30 then because CPI's amortization study said well, you can't separate the plating shop from the balance of  
31 the other uses, it would, presumably it would still be onsite and luckily they have that very large site I  
32 showed you in the aerial, so it would be possible to physically relocate the plating shop use more than  
33 300 feet away from the residential properties that abut the property and still be more than 300 feet, you  
34 know, still be on the property. So the plating shop would still be related to, proximate to the rest of the  
35 uses and the rest of the nonconforming uses would have to relocate by the date of 2052 which was the  
36 date in that second amortization study.  
37

38 So in terms of next steps, tonight we're hoping that you will conduct a public hearing, you know, hear the  
39 public comments and that you will ask us any questions you have, make your own comments and  
40 ultimately form a, forward a recommendation to the City Council. We have staked out a claim to a time  
41 on the agenda at the City Council on February 22nd for their consideration of these two Ordinances.  
42

43 And then as I mentioned, we're trying to reach a settlement or a compromise on this. If our  
44 conversations are fruitful, it would probably involve amending the Amortization Ordinance to provide an  
45 incentive for moving the plating shop entirely out of town instead of 300 feet away but still on the site.  
46 And in doing that, in exchange for some more years, you know, so a little more time to obviously  
47 technologies would have to change, but that's the kind of concept we're hoping or we're working  
48 towards. It would be contingent on some kind of enforceable agreement that would give certainty to all  
49 the parties, the City, the company and the neighbors. So fingers crossed that we will, those discussions  
50 will bear fruit but, you know, with or without an agreement, we're proposing to move forward with the  
51 Ordinances to the City Council in February. Thanks so much. We're happy to answer questions.  
52

53 Chair Fine: Thank you, Director Gitelman. As we just heard obviously this is a public health and welfare  
54 issue, and we have a number of speakers who would like to speak to that, so let's start with the public.  
55 Vice-Chair.  
56

1 Vice-Chair Gardias: Thank you, Mr. Chairman. So we have five speaker cards. I'm going to read out the  
2 name and, of the speaker, of the upcoming speaker, and then the following one. So first one is Tom  
3 Grant, followed by Amanda Mogan. And you have five minutes.  
4

5 Tom Grant: Hello. My name is Tom Grant, and I'm the Vice President of Engineering for the Microwave  
6 Power Products Division of CPI in Palo Alto. I've spent 34 years at CPI. I'm speaking to you tonight at  
7 the request of Bob Fickett, CPI's President. Bob is unable to attend this meeting as he's on business  
8 travel. In my role at CPI, I'm heavily involved in our manufacturing processes in Palo Alto including those  
9 involving the use of chemicals and have a significant knowledge of the operations of our facilities. As you  
10 are no doubt aware, CPI is the successor to the original business of Varian Associates, and we have been  
11 in the same Stanford Research Park location since 1953. Our plate shop has been in its current location  
12 for almost 60 years. It plays a vital role in the manufacturing of products used to treat cancer patients,  
13 enable global communication systems and protect American and allied military personnel. The Zoning  
14 Ordinance regulating a new class of hazardous materials that is under discussion tonight is unnecessary.  
15 It specifically targets CPI and our manufacturing processes and facilities in Palo Alto. Based on my  
16 experience at CPI, conclusions of numerous governmental agencies and the studies and findings of  
17 multiple third-party experts, it is clear that CPI Palo Alto facilities are safe and safely operated. Three  
18 independent experts have studied our facilities and processes in-depth. All of them, including those hired  
19 by the City of Palo Alto, have come to the same conclusion. Our facilities are safe and pose no  
20 reasonable threat of harm to our neighbors or our community. CPI understands why we are standing in  
21 front of you today to discuss this Zoning Ordinance. Although we might wish it otherwise, we accept that  
22 this process is being driven by fear not scientific fact. Fear is a strong and important emotion, but it  
23 should not be the basis by which the City drives out a safe, longstanding and respected member of its  
24 business community. CPI continues to endeavor to be a responsible and reasonable member of the Palo  
25 Alto community. Since coming to Palo Alto in 1953, our operations have always been in conformance  
26 with the law, and we do not intend for that to change. Therefore, we are prepared to continue to work  
27 with the City and its representatives to conform to the new Zoning Ordinance that is being discussed  
28 tonight provided that we are given a reasonable and feasible period of time in which to do so. The  
29 current Amortization Ordinance being proposed is not reasonable. If CPI is penalized with an unrealistic  
30 and unprecedented short amortization period that threatens the economic viability of our company, we  
31 are willing and prepared to fight both Ordinances with legal action. Nonetheless, CPI will retain its  
32 commitment to and focus on the continued safety of our operations. We look forward to continuing to  
33 work through this issue with City representatives. Thank you for your time.  
34

35 Vice-Chair Gardias: Thank you, Mr. Grant. Ms. Amanda Mogan followed by Jennifer Johnson.  
36

37 Amanda Mogan: Good evening. My name is Amanda Mogan, and I am the Director of Investor Relations  
38 for Communications & Power Industries. I have worked for CPI for 10 years which makes me a relative  
39 newbie to the company. I grew up in this area. I went to high school at MA and earned my graduate  
40 degree in communications at Stanford. I'm standing in front of you tonight because over the past 10  
41 years I have been highly involved in CPI's community relations and in addressing questions about the  
42 safety of our shared community and the fears of local residents. At times CPI has been portrayed  
43 publicly as a callous and unfeeling Goliath trampling on the lives of local residents without any  
44 consideration of their concerns. When numerous independent studies have shown our operations to be  
45 safe, we have been accused of buying the results and brainwashing our employees. These accusations  
46 could not be farther from the truth. I'd like to present a clearer picture of CPI's employees and the work  
47 they do to maintain the health and safety of our community. I'll start with the employees themselves as  
48 they are a unique animal in this time and in this area. CPI's approximately 600 Palo Alto employees have  
49 worked for the company for an average of 20 years. Many of our employees spend their entire careers  
50 with the company. They believe in the importance of the work that they do and in the company. Their  
51 dedication and loyalty says quite a lot about CPI as a company and as an employer. More than 200 of  
52 our Palo Alto employees are engineers and scientists. We also have highly trained assemblers and  
53 technicians as well as office workers. These are not stupid people nor are they shy. They are well  
54 trained in and committed to safety, and they speak up if there is an issue. CPI has a robust community  
55 response program. We investigate and respond to all types of calls from the community. The questions  
56 posed have ranged from concerns about a white cloud on our property which was steam to claims that

1 CPI has caused an outbreak of fleas at a nearby house. We take each call very seriously. In recent  
2 years in response to neighborhood inquiries, we have hired noise consultants, trimmed residents' trees,  
3 investigated odors coming from sources including skunks in a nearby hotel laundry room, notified  
4 neighboring businesses about complaints we have received regarding noise on their properties, and so  
5 on. But when our investigations have shown that we can improve the situation, CPI has made the  
6 merited changes. For example, when the City's consultant made recommendations about chemical  
7 deliveries, CPI personnel examined the delivery processes and put additional safeguards in place. We  
8 take advantage of every opportunity to continue to improve the safety of our facility no matter the source  
9 of the suggestion. As someone who has spent the past 10 years talking about the safety of CPI's  
10 facilities and was witness to the enormous behind-the-scenes effort that goes into investigating every  
11 neighborhood complaint and enacting each independent expert's recommendations for strengthening our  
12 already impressive safety culture, I can assure you CPI is far from unfeeling. The company protects its  
13 employees and environment with an unflinching commitment to safety and takes community concerns  
14 very seriously. We know that when our community is safe, our workforce is safe and vice versa. Thank  
15 you for your time and attention.

16  
17 Vice-Chair Gardias: Thank you, Ms. Mogen. Ms. Jennifer Johnson followed by Betsy Lake.

18  
19 Jennifer Johnson: Good evening and thank you. My name is Jennifer Johnson and I'm a cofounder of  
20 Canyon Snow Consulting in Los Gatos. We are part of the CPI team working on communications with  
21 members of the community. And I'm also an environmental engineer with a Master's Degree that  
22 focused on air pollution modeling, and so I thought I would take a moment to share some insight on  
23 models that have been used to predict offsite impacts from the facility and to talk about how  
24 conservative those models are. The reason I'd like to raise this topic is to recognize that one of the key  
25 issues up for discussion is the length of time for CPI's plating operation to remain a neighbor to the  
26 nearby Barron Park community. Some of the concerns of the neighbors are based on the possibility of a  
27 harmful offsite impact. However, we can confidently say that there is no likelihood of an incident or spill  
28 onsite that would result in a harmful offsite impact. As you may know, offsite impact studies were done  
29 by a number of experts looking at different possible accident scenarios. One scenario with normal  
30 operations showed no offsite impacts from a spill. One scenario modeled to take place during a chemical  
31 delivery did show potential offsite impacts, but the model only took place when the outdoor temperatures  
32 were higher than those temperatures at which CPI allows deliveries. So when the heat rises in, ambient  
33 heat rises they don't allow the deliveries, so that actually is not a possible accident scenario. And then  
34 the third scenario modeled an earthquake of an unknown but catastrophic size that even the City staff  
35 agreed was unrealistic that did show an offsite impact. In other words, no reasonable scenarios that  
36 were tested would show a harmful offsite impact from CPI, a spill at CPI. In addition to the unlikely  
37 conditions I just mentioned, the models themselves are based on very conservative assumptions, and I  
38 wanted to share examples of three of those with you. The first is that you put chemical properties into  
39 the model, and one of the properties is vapor pressure which helps you predict how well a chemical will  
40 evaporate from a liquid state into the air. In our case, the actual vapor pressure of the chemicals used at  
41 CPI is lower than the vapor pressure used in the model, and so the models over-predict the amount of  
42 vaporization and the amount of offsite impact that would happen from a spill. Second, weather  
43 conditions are put into the model, and in this case the ambient air temperatures during a potential spill  
44 are assumed to be over 90 degrees and the speed of the wind is assumed to be lower than what is  
45 normal for this area. And the importance of that is that high winds would dissipate any cloud or plume  
46 and reduce the impacts. So under these modeling conditions, the plume would stick together better than  
47 and more than what would be realistic. Finally, the third example. The modeling exercise assumes that  
48 a spill would occur outdoors, and that the total amount of chemicals stored onsite would become entirely  
49 and instantly spilled in a puddle on the ground. In reality, the chemicals are stored in baths and closed  
50 vessels indoors. The baths, if they were to fail, would spill onto the floor which is structured like a strong  
51 mesh. Any spillage flows through the mesh into collection pipes and into closed tanks below the floor, so  
52 none of the predicted evaporation or the perfect cloud would even have a chance to materialize or  
53 migrate anywhere. And it's also worth noting that since the Loma Prieta earthquake where no releases  
54 occurred there have been even further retrofits put in place. So I share all this with the hope of a better  
55 understanding that some of the fears are based in part on very conservative and very unlikely modeling  
56 and scenarios. And very much appreciate the chance to share that tonight.

1 Vice-Chair Gardias: Thank you, Ms. Johnson. Ms. Betsy Lake followed by Bob Moss.  
2

3 Betsy Lake: Good evening. I'm Betsy Lake, the last of the CPI contingent tonight. I am a former  
4 resident of Palo Alto, graduate of Stanford Law School, and I'm now with Holland and Knight in San  
5 Francisco, and we represent CPI. And I believe you've received my letter in your packets. And as stated  
6 in that letter and as acknowledged by the City staff, CPI has legally vested property rights in this facility  
7 in CPI in Palo Alto. And as noted by Tom, CPI is ready to defend them vigorously. CPI has not found  
8 there to be a rational basis that supports the Tier 2 Zoning Ordinance but, as Tom also stated, CPI is  
9 working with the City to try to achieve a reasonable settlement. And that really all revolves around  
10 amortization. It revolves around how much time CPI has to come into conformance. And as I discussed  
11 in my letter, I think there's lots of reasons why the proposed amortization schedule should be extended,  
12 and the current Amortization Ordinance proposal is not legally sufficient. First, the City's existing  
13 Amortization Ordinance is set at 15 years from the date the Ordinance is passed. And this proposal  
14 would allow only 10 years for the plate shop chemical uses. Second, the proposal to provide less than  
15 the minimum number of years is unprecedented in the City of Palo Alto. The City has only granted  
16 extensions. They have never shortened the amortization time period. Third, the City's experts admit that  
17 the 2026 date isn't valid if there's been additional improvements to the plating shop, and there have been  
18 additional improvements. And then finally, it, the City's amortization study focuses only on one portion of  
19 the site, the plating shop, and the City's experts acknowledge that the plate shop is integral to CPI's  
20 operations and if the entire operations were to be amortized, that time period would run to 2052. That  
21 said, we have started on behalf of CPI talking to the City about coming to agreeable settlement terms,  
22 and we encourage the Planning Commission to in turn encourage the City and the parties to continue  
23 those settlement discussions and to extend the amortization period so as to avoid a protracted and  
24 expensive legal process which frankly would be good for me, but I think the outcome of a settlement  
25 agreement would provide a great deal of certainty to the City, CPI and the stakeholders that would be  
26 valuable. So thank you very much.  
27

28 Vice-Chair Gardias: Thank you, Ms. Lake. Mr. Bob Moss.  
29

30 Bob Moss: Thank you and I'll start out by saying that I've had decades of experience working with  
31 hazardous and toxic materials, many of which are a lot nastier than anything that CPI uses, and so I'm  
32 very well aware of the risks that you encounter when you have these kinds of materials onsite. So the  
33 first question is do we need to tighten up our Ordinance, and I think absolutely we do. I think the  
34 Ordinance that the staff is recommendation, recommending is reasonable, and I think we should start,  
35 the first thing we should do is say yes, we have to have a tightening of the way we allow the use of  
36 hazardous materials, especially right adjacent to residential areas. And by the way, it's not just  
37 residential. A couple of blocks away we have a school. If we happen to have a spill at the time when  
38 there's a relatively high wind coming from the north, we can have that toxic material come down over  
39 Barron Park School, which is even nastier than just coming down on the homes. So we definitely have to  
40 control what we put there and how we handle it. Now the first question, of course, is should we be  
41 required, should we require CPI to amortize, and the answer is absolutely, there is no question. When  
42 you have a risk to public health and safety, you are completely justified in amortizing out that use. Is  
43 2026 a reasonable time? I think 2016 would be better, but if we're required to give them the extra time,  
44 then we can go to 2026, but not 2027. The next question is how do we control what they're doing and  
45 how they're doing it. Now it's kind of interesting. CPI claims that they have to have the plating lab  
46 onsite, and they can't move it even 3 or 400 feet. We used to have parts plated in San Jose, in Fremont,  
47 in Milpitas. We didn't have to have our plating lab onsite. We had a plating lab, this is talking about SSL,  
48 but there were some things that we had to have plated elsewhere. It didn't bother us that it was being  
49 plated 10 or 20 miles away. Saying that CPI absolutely must have their plating lab onsite and, oh by the  
50 way, right next to the housing is absolutely inconceivable, completely unjustified. The next question is  
51 how do we enforce this requirement, and I would suggest that if CPI doesn't move their plating facility at  
52 least 400 feet from the residential area, that they be fined because they are creating a public health and  
53 safety hazard, and the City can impose requirements when there is a public health and safety impact and  
54 we have a risk to the health and safety of the people who live here. So I don't see any reason why we  
55 should back off. I think we should be doing even more to make CPI safe and not creating an  
56 environmental hazard for the people who live in Palo Alto and particularly in Barron Park. I don't think

1 we should be risking the lives and the health and safety. CPI is saying they have all these controls in  
2 place, but they've had three spills. One of them was a delivery truck. CPI doesn't control the delivery  
3 trucks. We could have a delivery truck come in tomorrow and spill, and CPI would say oh, it's not our  
4 fault. We didn't drive the truck. We just worry about what's on our site. That doesn't pay. Move  
5 forward, approve the proposal the staff has suggested, and see if we can't justify amortization even  
6 sooner than 2016.

7  
8 Vice-Chair Gardias: Thank you, Mr. Moss. We have one more speaker card, Mr. Samir Tuma. You have  
9 five minutes.

10  
11 Samir Tuma: Good evening, Commissioners. Samir Tuma, 827 Chimalus Drive, a neighbor of CPI's.  
12 This, you know, I remember several years ago when we started down this process, and at that time I  
13 was sitting up there as a Planning Commissioner. And this first came to light, those of us who lived in  
14 the neighborhood had no idea that it was there, and that came to light essentially because of an accident  
15 that happened, that impacted our neighbors, made people sick. We have lived with this for years and  
16 years and years. CPI is a master of delay here. They keep delaying. They want more studies. They  
17 want more, you know, conflict of what the consultants say, and they try to obfuscate the issue and make  
18 it difficult. It's really not that difficult. You have, you and the City Council and the City of Palo Alto have  
19 an obligation to the residents to protect us. We have a hazard. It's very clearly a problem, and you  
20 know we have, I think we've been incredibly patient. We've been told all along that the clock was  
21 ticking, so yes, it was taking time, but the amortization had already begun. Now there's some question  
22 about that. So it's really time to act. It's time to get this thing going, time to get it in place. CPI is going  
23 to do whatever they're going to do from a litigation perspective. You can't back down. You've got to be,  
24 you've just got to stick up to them and just do the right thing. You know, this is about the health and  
25 safety of residents, and we've waited long enough. So please get this going, get it back to Council. Let's  
26 get the Ordinance passed, and let's get them out of town. Thank you.

27  
28 Vice-Chair Gardias: Thank you, Mr. Suma. I believe we're getting more speaker cards. So I just received  
29 one more card, but apparently there is a couple more in the pipeline, so let's hear from Mr. Arthur  
30 Liberman. And then we are awaiting additional speaker cards. Mr. Liberman, you have five minutes.

31  
32 Arthur Liberman: Thank you. Good evening, Chair Fine and Commissioners. This story with CPI and the  
33 residents of the City and residences has a long history. I think you're probably aware of that. I sent you  
34 a long timeline, a two-page timeline before the meeting took, to fill you in on the history. I appeared  
35 before this Commission ten years ago. Mayor Burt was the PTC Chair at the time, and maybe that has  
36 something to say about your future political care. I don't know. But I do want to emphasize a few  
37 points, first about the location of the CPI plating shop. If you look at that, one of the pictures that I  
38 showed you which has an outline of where the CPI facility is and nearby residences, you can see how  
39 close we are. We live really close to it, and much, close to the facility and specifically close to where the  
40 hazardous materials are in the facility. When they sneeze, we catch cold. And Mayor Burt, himself the  
41 owner for many years of a plating business in an industrial area in another city, said last November, and I  
42 quote, "I would not want to be over the fence from this facility." Now CPI will tell you that they've  
43 operated a plating shop there for many years. It is true that Varian had a plating shop, but that was built  
44 at another time. That was before Bhopal. It was before EPCRA, the Emergency Planning and  
45 Community Right-to-Know Act. It was before Barron Park became part of Palo Alto. We were  
46 unincorporated Santa Clara County, and that was one mistake that was made to have allowed that facility  
47 to be built. And another mistake, the second mistake, was to allow it to be rebuilt in the same place and  
48 even more so without notifying us or informing us or consulting with us or having any kind of open  
49 process. Mayor Burt also said at that meeting on November, last November, something rather very  
50 important which I want to quote. He said, "We've become very, more urbanized in Palo Alto, and long  
51 term it'll even be more so. We understand risks and incompatible uses better than we did." He went on  
52 to say if we had hindsight, we wouldn't have done this sighting. So part of this meeting tonight or this  
53 Ordinance is to redress that issue and that decision which was made some time back. I'm not going to  
54 talk too much about the accident in 2006, except that it was the event that opened our eyes to what was  
55 in our backyards and brought me to come to this, to the, to this issue, to investigate the issue and  
56 understand it. The investigation that the City carried out after that accident identified a number of



1 issues, inadequate process procedures, insufficient employee training, missing engineering controls.  
2 Every accident is different. It's an accident. There was an accident recently, or not recently, a couple of  
3 years after that first accident, in 2008, which was an acid spill that happened during delivery. Now CPI is  
4 trying to be vigilant, but I'm sure that they would agree that not all circumstances can be foreseen, not  
5 all conditions can be understood, and not all accidents can be prevented. Certainly natural disasters  
6 cannot be predicted, and because CPI is so close, just one misstep with their toxic and highly toxic  
7 materials would wreak havoc on our community. So if you turn over the page you can see a picture of,  
8 that was taken from the internet of an accident involving a nitric acid spill at a plating business in  
9 Massachusetts near a residential zone. And that indicates why it is so essential to have a buffer zone  
10 between residents and toxic and highly toxic materials, and that's the first Ordinance from the staff that  
11 is before you. Finally, let me just mention a few words about amortization. We'd like the CPI plate shop  
12 to close or move now before something terrible happens, but the City Attorney says it can't be done  
13 without due process. Amortization gives them due process. It gives CPI the time to obtain a full return  
14 on their investment. Plating shops need to be rebuilt every 15 or 20 years. That's not me saying that,  
15 that's Mr. Fickett who said that, he's the President of CPI, who said that publicly. So the  
16 recommendation of the City's consultant estimating a 20-year economic pay back, payback for its plating  
17 shop when it was built is fair. And from our point of view, the clock has been ticking ever since that time  
18 of 2006. So it should really not be a big hardship for CPI to rebuild or move their plating shop. Ten  
19 years gives them plenty of time to restructure their process flow and their product fabrication. In  
20 summary, we've come a long way since I was here ten years ago, but you need to act now. Vice Mayor  
21 Scharff said at the meeting in November, "I don't really want it to be delayed where we have more and  
22 more discussions forever without actually moving it forward." And that's exactly how we feel. It's really  
23 time for it, the PTC to move this forward, follow directions indicated by the staff proposals and approve  
24 them and move them to the Council. Thank you.

25  
26 Vice-Chair Gardias: Thank you, Mr. Liberman. We like your comments about the Chairman and there is  
27 more untapped talent here in the Commission and in the audience. So please come more often. Thank  
28 you. We have one more speaker, Ms. Romola Georgia. You have five minutes.

29  
30 Romola Georgia: Thank you. Good evening, Commissioners and staff. Hi. I'm Romola Georgia. I've  
31 lived in the Barron Park neighborhood for 35 years, and I've been writing and speaking to you since  
32 2007, after CPI released the toxic nitric acid fumes into our neighborhood. And today, I'm asking you  
33 one more time to please make our neighborhood safe. I want you to know that the problems connected  
34 with this facility are ongoing and various. We live daily with geysers of unknown vapors and alarms and  
35 sirens and noisy trucks delivering toxic contents. Would anybody here, who's here tonight who wants  
36 toxic and hazardous materials removed from our Palo Alto neighborhoods please stand up and give a  
37 wave? There are a few of us here, great. Thank you all. And I, I'm feeling very grateful to the Council  
38 and staff for its long work regarding risks and zoning and amortization. In this year of focus on our  
39 community's sustainability, I believe a top priority is the health and safety of residents. The risks of toxic  
40 and hazardous materials are a major impediment to a sustainable, resilient community. The reports  
41 before you are certainly complex, but our Barron Park neighborhood sees the issue, I believe, with great  
42 clarity. Operations that use large quantities of toxic materials and chemicals should not be located right  
43 next to homes. The homes on our blocks are filled with live people including babies and young children  
44 and seniors. Moving CPI's operations from an industrial area in San Carlos to just a few feet from our  
45 homes was a most unfortunate mistake, and it's time to rectify that error, remove this danger from  
46 Barron Park. The news shows us daily that earthquakes and industrial accidents are neither predictable  
47 nor preventable. Please, please vote tonight to approve the Ordinances to change the zoning rules and  
48 begin the process that will help CPI move its plating facility and all toxic and hazardous material away  
49 from our homes. We've been petitioning you and waiting nearly ten years. Thank you.

50  
51 Vice-Chair Gardias: Thank you, Ms. Georgia. I believe we have no more speaker cards.

52  
53 Robin Ellner, Administrative Associate III: No more cards.

54  
55 Vice-Chair Gardias: Thank you.  
56

1 Chair Fine: Thank you, everyone, for voicing your minds. We really appreciate the turnout tonight. I'd  
2 like to turn it over to the Commission for a round of questions. Let's do five minutes each, and then any  
3 comments you may have. Commissioner Rosenblum.

4  
5 Commissioner Rosenblum: First just a question for staff. I want to clarify the purview of the PTC in this  
6 matter, and there are a few things that I can see that are in the report that might be things that you  
7 want us to comment on, but I wanted to clarify. The first is are you asking for whether or not the tiering  
8 definition makes sense. So the representatives from CPI have challenged the definition of tiering, and so  
9 question one is, is that on the agenda. Let me just go through these first, and then maybe you get an  
10 answer for all of them at once. The second is whether or not CPI fits within the tiering structure if the  
11 tiering structure seems appropriate. The third is an evaluation of the amortization schedule, and then  
12 within that is whether there's reason to consider amortization for just the plate shop, is the schedule itself  
13 fair. So in terms of guidance that the PTC can give back to Council, is there a particular area that you're  
14 looking for us to concentrate on?

15  
16 Ms. Gitelman: Thank you for those questions. I think the Commission understands that any time we  
17 have a proposed Ordinance that proposes to amend Title 18, the Zoning Ordinance, the Code provides  
18 for the Commission to review the Ordinance and make a recommendation to the Council. So just at a  
19 high level, that's where we are. I think I indicated in my presentation, however, that we have been  
20 working with the Council on this particular set of Ordinances for a long time and feel like we've gotten  
21 very specific direction from them about what the Council's expectations are. So while they need your  
22 recommendation to proceed, I don't know that they're looking for the Commission to rethink everything.  
23 I think, you know, you could add value for sure with your questions and comments. I think particularly  
24 on the Hazardous Materials Ordinance and the way we structure it around tiers and sensitive receptors,  
25 that would be fantastic. But I don't think the Council is at this point expecting, you know, a whole, you  
26 know, overturning of one direction and going in another. So I don't know if I got to all three of your  
27 questions. Molly, you have anything to add? Okay, yeah.

28  
29 Chair Fine: Any other Commissioners have questions? Commissioner Waldfogel.

30  
31 Commissioner Waldfogel: Thank you. That wasn't for me, was it? A short five minutes. No problem.  
32 Thank everybody for their presentations. I'd just like a clarification on page 19 of the packet, the Section  
33 4 of the proposed Ordinance, (b)(2), just a clarification. Does this restrict residential improvements  
34 within the 300-foot radius of the Tier 2 facilities?

35  
36 Ms. Gitelman: I'm sorry. Could you help me find where you are?

37  
38 Commissioner Waldfogel: It's page, I'm sorry, it's page 7, but it says P&TC packet 19 of 66, so this big  
39 thing. Section 4, Part (b), development standards for exclusively residential uses, Number 2 and the  
40 underlined part that says existing residential development within 300 feet. Let's see. No new residential  
41 development is permitted within 300 feet of an existing hazardous Tier 2 materials use.

42  
43 Ms. Gitelman: I found where you are. This is an excellent question. We've drafted this Ordinance to  
44 make it, to ensure that there are no new sensitive receptors introduced within 300 feet of Tier 2 uses  
45 when those sensitive receptors occur, when, in regards to residences when it occurs within the Industrial  
46 Zoning District.

47  
48 Commissioner Waldfogel: And what would trigger that? Would redevelopment, would a new kitchen for  
49 example be triggered, would that be allowed under this?

50  
51 Ms. Gitelman: Let me say right off the bat we haven't identified any residences that are currently within  
52 300 feet of these Tier 2 uses that are within the Industrial Zoning Districts. So this rule about  
53 nonconforming uses and you can't expand and you can't introduce new uses doesn't apply to the  
54 Residential Districts that about the industrial zoning. This is, we're only amending the Industrial Zoning  
55 Standards.

1 Commissioner Waldfogel: Thank you for the clarification. It wasn't clear from this text.

2  
3 Chair Fine: Mr. Vice-Chair.

4  
5 Vice-Chair Gardias: Thank you, Mr. Chairman. I have to time myself then, so rules are rules. I have  
6 several questions, so please help me just with the distribution. So the first is related to the other  
7 municipalities that might have a similar restriction, not necessarily tiering but pretty much just having the  
8 boundary within the similar bracket between Title 19 and CUPA being applicable to the residential areas.  
9 So could you give us example of some other municipalities, how they resolve this? I don't know if you  
10 have them. So that would be my first question. We can just go through the other ones.

11  
12 Ms. Gitelman: We have not identified another jurisdiction that has taken this approach of regulating a  
13 tier between the CUPA and the Title 19, so we're forging new ground here.

14  
15 Vice-Chair Gardias: The second question is about, just a moment. Is about the 300 feet perimeter, and I  
16 believe this was, the reasoning was provided in the packet already, but if you could just clarify it for us.  
17 What's the reason behind the 300-foot buffer zone between those facilities and the receptors? Why 300?  
18 Why not some other, 200 or some other area? What's the methodology behind establishing this  
19 (inaudible).

20  
21 Ms. Gitelman: Certainly I'd be happy to respond to that. First, we have to recollect this is not the first  
22 time that Palo Alto has embarked on a regulation around hazardous materials uses that is relevant here.  
23 So back in 2007 when the Council initiated their desire to regulate hazardous materials uses, they created  
24 this 300-foot distance between residential uses and what we're now calling Tier 3 uses. So when we  
25 were charged with coming up with a minimum distance in this case, we used that earlier Ordinance as a  
26 model. Basically we said, you know, back in the day if the Council was saying 300 feet was appropriate  
27 for Tier 3, then it should be appropriate in this case for Tier 2. There's certainly no rationale to go larger  
28 than 300.

29  
30 Vice-Chair Gardias: And then the last question, I'm sorry. And the last question I had is about the  
31 definition of the sensitive receptors that's on page 15 of the packet, that is paragraph, that's the  
32 definition of the sensitive receptors. And I can just tell you that there's no need to go into the packet.  
33 So pretty much businesses are not included in this definition, and that may be the case because there are  
34 no residences, because it focuses on the residences. My question is like this, why office buildings are not  
35 within this area of the safety zone?

36  
37 Rod Jeung, AECOM: If I may, Vice-Chair. One of the reasons we started off with looking at uses that  
38 might be affected besides just a residential in the residentially zoned properties which was previously  
39 addressed in the existing zoning regulations is to recognize that there are certain populations that are  
40 going to be more vulnerable to exposure to hazardous materials. And typically in environmental  
41 documents, health risk assessments, you're looking at populations that might have immunities, might be  
42 exposed easily and suffer consequences and compromised lung conditions. So we're looking at people  
43 with asthma, children, residents, people in schools. Typically people in office buildings don't have the  
44 same duration of exposure, and they typically have the air conditioning systems that allow the ventilation  
45 and the exposure to hazardous materials to be obviated.

46  
47 Vice-Chair Gardias: So if I may make comments, a couple of comments. So yes, that's right, but then  
48 you can also foresee some other factors. Business is a concentration of the population and also during  
49 the delivery hours and they may be exposed to those harmful vapors as well. So they may be subject of  
50 the spill or some other incident. And then you're right, I mean, they have HVAC systems and others, but  
51 regardless, right. My recommendation would be to include them just because that this is, that within  
52 that, during the operation, during the time of the operations between 8:00 and 5:00, whenever CPI  
53 operates, then pretty much you have the people are moving from their residences and just moving to the  
54 businesses. That may not be the case. Maybe there is known business within the area, but that, there  
55 may be a risk, right? So that's number one. Number two comment, and I'm already out, over my time,  
56 but I think that the Chair is granting me more leeway here. So keeping this 300 feet radius, I think that

1 if we may ask you to or if I may ask you just to take a look at the, what was the reason or calculation  
2 behind this 300 feet that maybe there were different factors that were taken into consideration. So I  
3 think that before, to have the final say of the radius, we would like to know there's some rationale, right.  
4 Is it the wind? What was the rationale back then? Maybe there needs to be, it needs to be modified.  
5 Thank you.

6  
7 Chair Fine: Thank you, Vice-Chair. I have a couple of questions I'll go through also. So first of all,  
8 they're kind of specific. Has the City undertaken any other site-specific amortization studies recently?  
9

10 Ms. Gitelman: Certainly not recently, not that I'm aware of, no.

11  
12 Chair Fine: Not in the past ten years or so? So this is the only one?  
13

14 Ms. Gitelman: Not that I'm aware of.  
15

16 Chair Fine: Have any other cities updated their Amortization Ordinance when it specifically affects a  
17 single user or land use like this?  
18

19 Ms. Gitelman: You know, I'm hesitating to answer just because I don't know the facts behind some of  
20 the other amortization periods and situations we know about. We know, you know, that Mountain View  
21 right over the border at one point amortized an industrial facility out in conjunction with a rezoning that  
22 they did. So they were rezoning an area that was kind of industrial and mixed use to residential or some  
23 other use, and so they gave the business a certain amount of time to leave. And then at some point the  
24 business came and said we need a little more time. We need five more years, and they gave it, but there  
25 was a kind of back and forth about what the period was going to be. I don't know, you know, what the  
26 studies were that led to that, whether it was site specific or whether it was more general. So I'm afraid I  
27 can't help you more than that.  
28

29 Chair Fine: And then my last question is also about site specific amortization studies. The Ordinance  
30 doesn't really have a quality threshold for those, does it? So I mean, what is the City of Palo Alto  
31 considering such a study and should that be in the Ordinance?  
32

33 Ms. Gitelman: I mean, I think basically an amortization study has to determine in a legally sufficient  
34 manner what the value of the investment is and how long it would take the business owner to recoup the  
35 value of that investment. So that's the philosophy or the thought process behind the study. And we  
36 would, you know, need one that's prepared by someone who knows how to do this thing and that we  
37 think would withstand a legal challenge. So I don't know that that needs to be in the Ordinance per se.  
38 I think it goes without saying.  
39

40 Chair Fine: All right. That's it for my questions. Let's turn to comments. And if anybody is interested,  
41 one other thing I'd like to do this year is, we are able to make a motion at any time. So if you feel we  
42 are ready at any time when we're discussing things, put a motion on the floor, and it will either die or  
43 we'll talk about it. I see Commissioner Rosenblum.  
44

45 Commissioner Rosenblum: I'll just make a comment. I feel, I'm taking to heart a couple of things. First  
46 is Director Gitelman's comment that this has been a long time coming with Council. They spent a lot of  
47 time going back and forth crafting this. From a statutory perspective, this has to go through the PTC, but  
48 that Council at this point has given some clear direction about what they want to see. I feel like the  
49 items of discussion are items of law that are going through a process with, between the City's lawyers  
50 and CPI, and I'm not sure that we're here to open a hearing about amortization schedules, etc. I'd be  
51 inclined to make a motion on this, but I'm going to wait to hear if there are any other comments first,  
52 and then I'm going to come back and make a motion to accept staff recommendation unless one of my  
53 colleagues persuades me otherwise.  
54

55 Chair Fine: Commissioner Alcheck.  
56

1 Commissioner Alcheck: On the bullet point list of the presentation, it's the fourth, fifth bullet says while  
2 moving forward with the two Ordinances, the Council's directing us to explore potential for an agreement  
3 that would eliminate the CPI plating shop from the site sooner than provided for in the draft Amortization  
4 Ordinance. Can we explore that? Is there, I mean, we have residents tonight who would like to see  
5 them out tomorrow. Is there a fund that we can tap to create a financial incentive to encourage their  
6 departure? Can we participate in, I'm exploring as requested. I guess what I'm trying to say is I feel  
7 similarly with Commissioner Rosenblum, you know, that, you know, the Council wants us to move this  
8 forward, and I don't feel particularly confident, I mean if the appointed expert felt that both the reports  
9 regarding amortization were, what was their terminology? It's like the most vague. I want to get it right.  
10 He said, yeah, I mean, yeah, the, gosh, not what I wanted.

11  
12 Chair Fine: Please, they were good.

13  
14 Commissioner Alcheck: Right, and you get my point. I guess what I'm trying to say is I don't feel  
15 particularly confident in sort of suggesting any change to the Ordinance as its written, and so I feel more  
16 comfortable moving it forward to Council to leave them with the responsibility of making this decision.  
17 That said, they've asked for a discussion of potential alternatives of moving CPI out earlier. And based  
18 on the presentation that CPI gave about amortization, it sounds like they're losing money here, that they  
19 didn't expect to lose based on the schedule. They were hoping their investment would, I guess, provide  
20 income for a greater period of time. So I'm just throwing this out there as an, one option, but are there  
21 other ideas for how to, what was the language here? I'm all over the place tonight. You know, eliminate  
22 the plating shop sooner than provided for in the amortization schedule. And my follow-up question, and  
23 this is for my Commissioners as well, I mean, arguably the residents are interested in that, so are we  
24 motivated enough to participate as a City on behalf of Barron Park to create the quote/unquote safer  
25 environment that the Barron Park residents that are here tonight are interested in?

26  
27 Molly Stump, City Attorney: So through the Chair, City Attorney Molly Stump. Perhaps I can help,  
28 Commissioner Alcheck. So to clarify the Council's direction, the Council did want to move forward the  
29 two draft Ordinances to this Commission for this Commission's input and recommendation in a timely  
30 manner back to the Council. The direction to explore was really to the staff, and probably part of the  
31 reason for that direction coming not to this Commission and its public process but to the staff is because  
32 it does involve areas of legal risk. And so those explorations are underway, and that's happening really  
33 at a staff level. I think the Council's direction to this Commission is to make sure that you help them to  
34 keep the process moving by keeping these two draft Ordinances moving forward and back to them. And  
35 we do have this date in February to do that, but the other process is running in parallel.

36  
37 Commissioner Alcheck: So in response to that, I feel comfortable moving these Ordinances forward, but  
38 I would encourage staff as directed by Council to work tirelessly to sort of come to some agreement.  
39 And I say that because despite CPI's statements that the ten-year time period is too short, it sounds like  
40 the residents feel very strongly the ten-year period of time is too long, and so I think there's potential  
41 here. So I would, I am in favor of adding to our recommendation a note that we really do encourage our  
42 City to potentially partner with CPI to come to an amicable result that everybody could be pleased with.  
43 That's it.

44  
45 Chair Fine: Thank you. Vice-Chair Gardias.

46  
47 Vice-Chair Gardias: Thank you. I just want to come back to the comment about the offices, and I was  
48 thinking about this whole paragraph, about the definition. I understand where you're coming from pretty  
49 much. From perspective of just defining those that would be more susceptible to the, to any risk than  
50 the general population, which my understanding doesn't align with your, the way that you're trying to  
51 approach it because given that there's no general population definition, then it's going to be, this clause  
52 will be in question, and then pretty much the risk may occur somewhere else, and then somebody else  
53 may raise the flag and say look, I am part of the general population, they didn't think about me and so  
54 forth. So for this reason, I would recommend and I will just, when there's going to be a motion on the  
55 floor, I will just propose to change this to pretty much expand it to the, to any of those that are within  
56 the given proximity. And I have language that I can recommend to you for consideration, so pretty much

1 as opposed to those are more susceptible than the general population, I would propose that those whose  
2 occupants may be susceptible to the adverse effects of exposure of toxic chemical and pollutants due to  
3 the risk, due to the proximity of the location. This pretty much will just address the entire population  
4 that is within the certain radius as opposed to just singling out certain occupancies.  
5

6 Chair Fine: Thank you, Vice-Chair. Commissioner Alcheck.  
7

8 Commissioner Alcheck: We don't have a motion on the table yet, but I just want to throw it out there  
9 before ones come up. I'm sort of looking to Commissioner Rosenblum to make it. I'm not sure I'm  
10 comfortable supporting an amendment to the proposed Ordinance simply because I think it's pretty  
11 complicated, and I think it's laying the groundwork for a referenced discussion or negotiation. And so my  
12 preference would be to support a motion endorsed or recommended this Ordinance without amendment.  
13 I know you, there isn't a motion on the table and that's not necessarily an, or a proposal yet, so I just  
14 wanted to throw that out there before one was made.  
15

16 Chair Fine: Thank you. Commissioner Rosenblum.  
17

18 MOTION  
19

20 Commissioner Rosenblum: I'd like to make the motion and specifically in this case I am trusting that the  
21 City in the negotiations with CPI is moving towards an amicable settlement and certainly hope that that's  
22 the case. So I would make a motion that Council, that the two Ordinances as written by staff move on to  
23 Council with PTC's recommendation. I don't see a particular need to add the qualifier and they should  
24 look for an even faster settlement. I didn't necessarily see overwhelming, and neighbors certainly have  
25 been patient, but it seems like in terms of legal options, there's been bookends from the minimum which  
26 CPI disputes to a maximum which the City obviously disputes. And looking for something outside those  
27 ranges, I'm just, I think is a bit of a wild goose chase. So the motion is for the two Ordinances to be  
28 passed to Council with PTC's endorsement as they were written.  
29

30 SECOND  
31

32 Commissioner Alcheck: Second.  
33

34 Chair Fine: So we have a motion on the floor from Commissioner Rosenblum, seconded by Commissioner  
35 Alcheck. I'm going to take a moment to make a couple of comments. I agree with Commissioner  
36 Rosenblum that we are not the Legal Department, we are the Planning Commission. In that case, that  
37 means we need to think about the zoning implications here, particularly as they relate to public health  
38 and safety. Commissioner Alcheck, you had a good question that Council was asking how we might do  
39 this sooner. If staff is updating 18.70.070, the part about amortization studies, to include a part saying if  
40 we've done a study, that's the clock, when the clock starts, why not just say, you know, do it in a year?  
41 That is an option, so I'm just putting that out there. The, I think I'm going to support the motion.  
42

43 AMENDMENT  
44

45 Chair Fine: I'd like to make one friendly amendment. It's a few small things. Although I'm not in  
46 support of saying all occupants may be susceptible to toxic, I would like to propose adding religious  
47 facilities as sensitive receptors. I think the point of the sensitive receptors issue is to protect children and  
48 the elderly. Religious facilities often have those groups. And then there's also many references to single-  
49 family and two-family, shouldn't we just say residential? So my amendment would be to add religious  
50 facilities as sensitive receptors and instead of saying single-family or two-family, just say residential uses.  
51

52 Commissioner Rosenblum: I accept the friendly amendment.  
53

54 Chair Fine: Commissioner Alcheck?  
55

1 Commissioner Alcheck: I will accept the friendly amendment, but I'm not entirely sure I understand the  
2 rationale behind expanding the receptors element of this, but I feel confident that staff could  
3 communicate our support for the Ordinance and that the City Council will figure this out.  
4

5 AMENDMENT ACCEPTED  
6

7 Chair Fine: Director Gitelman.  
8

9 Ms. Gitelman: If I could interject particularly on the question about residential uses. I think you're  
10 reacting to, I'm looking at packet page 16 of 66. What you see here is the table of uses that are allowed  
11 in these Industrial Districts, and like in other zoning districts, this table differentiates between single-  
12 family, two-family and other residential uses. So this is kind of a function of the way our Code is  
13 structured, and so it would be difficult to make that change. The change about religious institutions, you  
14 know, we would really have to analyze what the implications would be for the Ordinance. I don't know  
15 whether there would be any religious institutions within the 300 feet of any of the other uses, so that  
16 would take some additional effort to determine whether that's a change that has meaningful import or  
17 not.  
18

19 AMENDMENT WITHDRAWN  
20

21 Chair Fine: Then I think I would withdraw my friendly amendment and just ask staff to explore the  
22 implication of adding religious facilities as a sensitive receptor. It's to you, Commissioner Rosenblum.  
23

24 Commissioner Rosenblum: So from a process standpoint, we go back to the original motion and subject  
25 it to a vote. Is that correct?  
26

27 Chair Fine: I would, the original motion, I withdrew my first friendly amendment, and I'm putting a  
28 second one forward about just asking staff to explore religious facilities for Council's ...  
29

30 Commissioner Rosenblum: So we're back to the original motion. Is that correct?  
31

32 Chair Fine: Yes. Vice-Chair.  
33

34 Vice-Chair Gardias: Thank you. So just based on this, what I was discussing previously, I'd like to just  
35 propose a friendly amendment that, to include offices. And then based on the discussion, it may be of  
36 the same nature pretty much, a recommendation to the staff to analyze what would be impact of  
37 including offices within this group of the sensitive receptors.  
38

39 Ms Gitelman: To the Chair, you know, of course it would take analysis to give you specific implications of  
40 what that change would be, but I'd like to point out that we're talking about regulating facilities that are  
41 within Industrial Districts where office use is a common occurrence. So I anticipate that we would find  
42 that such a change would materially affect the impacts of this Ordinance and make it very difficult to  
43 administer, potentially implicating a lot of these other Tier 2 uses. And now again, I can't say that with  
44 certainty, but it would be, I think, a material change.  
45

46 Vice-Chair Gardias: I totally understand. For this reason, I will not be, based on the discussion that my  
47 colleagues just had, right, so I understand there could be material impact on this. But nevertheless,  
48 right, that's an area I think of a risk, and then we need to just address it one way or the other.  
49

50 Chair Fine: So we have a motion on the floor that the PTC endorses the two Ordinances and direct ...  
51

52 Vice-Chair Gardias: I have one more.  
53

54 Chair Fine: One more (inaudible)?  
55

56 AMENDMENT

1 Vice-Chair Gardias: Yes. I have, so that was recommendation to the staff, right. But I have amendment  
2 to make which is pretty much to include in the language to look at the 300, methodology behind 300-foot  
3 radius and include the language in the Ordinance that is, that supports the 300-foot radius and that may  
4 be pretty much the 300-foot radius or other ones calculated as and then blah, blah, blah, just spelling out  
5 the methodology behind the calculation. When you're going to look at it, it might, the radius may change  
6 which of course it's not going to affect the selection of these three facilities, but may affect other future  
7 locations. You may decide after analysis to change the radius to make it smaller or larger.

8  
9 Chair Fine: Commissioner Rosenblum.

10  
11 Commissioner Rosenblum: So just point of order. I'm not sure what, where we are in this. Are you  
12 proposing an amendment to the motion? Are we ...

13  
14 Vice-Chair Gardias: That's correct, yes.

15  
16 Commissioner Rosenblum: So from my perspective, there's no reason to include this as an amendment  
17 to the motion. If you want to direct staff to additionally elucidate Council as to why 300 was the number,  
18 then I think that's perfectly appropriate, but I don't think it has, it isn't really part of the motion. And I  
19 don't think that we have sort of staff recommendations of further study as part of the motion.

20  
21 Vice-Chair Gardias: So the reason behind this is that when they look at that definition methodology that  
22 was established several years ago, they may find it's not supported today. And then someone may come  
23 later on and just pretty much challenge us with just providing the number that's not truly properly  
24 researched. So for this reason, I would like to just have it as part of the motion because if we're going to  
25 just let it flow with the number that's not truly scientifically supported, we just expose ourselves to risk.  
26 So for this reason, I would like to have it as part of the motion.

27  
28 Ms. Stump: Through the Chair, if I may. Thank you, Vice-Chair Gardias. So this is a complicated area  
29 technically as well as legally and from a policy standpoint. And it's my understanding, our expert can  
30 help me if I'm wrong, that the chemical substances proposed to be regulated here have a variety of  
31 properties. And so really it's a policy decision, and it probably does not have the level of precision that  
32 you're thinking it may have, in part because we are talking about a general rule that can be understood  
33 by businesses and residents that needs to apply to a whole class and category of chemicals. So I suspect  
34 that when we look at this, we will be seeing something much more general about reasonable protective  
35 buffers as opposed to a specific numerical formula.

36  
37 Vice-Chair Gardias: I totally understand this, but then still, right, that there is a, then there may be some  
38 reason behind this that's physically calculated, and then there is some reason buffer that's added to this.  
39 So pretty much for, I think that this is worth just making an effort and just taking a look at this, what was  
40 defined many years ago.

41  
42 Chair Fine: I think that is a friendly amendment. It's to Commissioner Rosenblum.

43  
44 AMENDMENT NOT ACCEPTED

45  
46 Commissioner Rosenblum: I don't accept this as a friendly amendment for the reason I stated. I'm very  
47 supportive of you giving in the notes recommendation to staff to pursue this and to give more direction  
48 to Council, but I don't see it as part of this motion.

49  
50 Chair Fine: Commissioner Alcheck.

51  
52 Commissioner Alcheck: Agree.

53  
54 Chair Fine: So we have a motion on the floor that the PTC endorses the, Vice-Chair.

55  
56 AMENDMENT



1 Vice-Chair Gardias: So I'd like to try again, and then just propose it as a not friendly amendment for the  
2 vote.

3  
4 AMENDMENT FAILS

5  
6 Chair Fine: Do we have a second for the Vice-Chair's unfriendly amendment to look at the methodology  
7 behind the 300-foot radius and include language in the Ordinance that supports the radius? I see none.  
8 Back to it. We have a motion that the PTC endorses the current two Ordinances as written by staff, and  
9 that the Council pass them, or the Council explore them. And then the friendly amendment to that is that  
10 staff explores implication of adding religious facilities as a sensitive receptor. Commissioner Rosenblum,  
11 do you want to speak to your motion?  
12

13 Commissioner Rosenblum: Sorry. I don't think that there was a friendly amendment as you just  
14 mentioned. I think that was withdrawn by you. Is that correct?  
15

16 Chair Fine: I thought we had gone through it twice, but I'm willing to leave it off. I think it is in the  
17 record at this point.  
18

19 Commissioner Rosenblum: It was a recommendation that staff research the implications of religious  
20 facilities. That's not, you mentioned friendly amendment, so I wanted to make sure it's not an  
21 amendment to this motion.  
22

23 Chair Fine: So the motion is just clean.  
24

25 Commissioner Rosenblum: Yes. Motion is that we, the PTC supports the two Ordinances as written by  
26 staff to go through to Council for them to consider passing.  
27

28 Chair Fine: Commissioner Alcheck, do you want to speak to the motion?  
29

30 Commissioner Alcheck: I don't have much to say except to encourage a speedy and amicable resolution  
31 to this process, and I hope that we achieve it.  
32

33 VOTE

34  
35 Chair Fine: All right, let's vote. All in favor. All against, none.  
36

37 **Commission Action:** Commissioner Rosenblum moved to approve staff recommendations second  
38 by Commissioner Alcheck. Passed 5-0-2 with Commissioners Downing and Tanaka recused.  
39

40 Ms. Gitelman: Thank you, Commissioners.  
41

42 Chair Fine: Thank you all very much. Let's take a ten or five ... Let's take a five-minute break, and then  
43 we'll come back to this next issue. Thank you everyone for showing up. So I'd like to call us all back to  
44 order.  
45

46 [The Commission moved to discussion of Item Number 2.]  
47

48 **4. 2501 Embarcadero Way [File 15-PLN-00371]:** Request by Public Works for Site and Design  
49 Review of a new two-story, 7,500 square foot, 50-foot tall building designed to handle sludge de-  
50 watering and truck load-outs, with adjacent stand-by diesel generator, to be placed centrally on the  
51 Regional Water Quality Control Plant site, and a new outdoor equipment area next to the existing  
52 incinerator. The proposed project is the construction and operation of the facility which would be a  
53 cast-in-place concrete structure with skylights and containing belt filter presses, truck loadout, and  
54 other miscellaneous support areas. The project includes minor modifications to the yard piping  
55 system and fuel storage in a sub-base fuel tank. Environmental Assessment: An initial study and a  
56 Draft Mitigated Negative Declaration have been prepared in accordance with the California

1 Environmental Quality Act (CEQA). Zone District: Public Facilities (PF) Site and Design Combining  
2 District (D). For more information, contact Amy French at [Amy.french@cityofpaloalto.org](mailto:Amy.french@cityofpaloalto.org)

3  
4 [The Commission took up this item after Item Number 2.]

5 Chair Fine: On our final item for tonight. Let me get my bearings. So this is 2501 Embarcadero Way.  
6 Request by Public Works for a site and design review of a new two-story 7,500 square foot, 50-foot tall  
7 building designed to handle sludge dewatering and truck load-outs, you'll have to describe to us what  
8 that all is, with adjacent standby diesel generator to be placed centrally on the Regional Water Control  
9 Plant site and a new outdoor equipment area next to the existing incinerator. You all can read the rest.  
10 Just give me one moment. So this is our chance to evaluate the Mitigated Negative Declarations in the  
11 attached report and to judge the four findings necessary for the Record of Land Use Action. We can  
12 recommend approve and/or changes to accomplish the objectives of the Comp Plan or the Municipal  
13 Code in this. With that, I believe we have Amy French to kick off our staff report.  
14

15 Amy French Chief Planning Official: Thank you, yes. Amy French, Chief Planning Official. This process  
16 is, as you know a site and design review. It begins with the Planning and Transportation Commission. It  
17 is followed by architectural review, and finally ends up with the Council. And all along the way, we have  
18 a Mitigated Negative Declaration that has been prepared, circulated through the State clearinghouse for  
19 comments. We've received several comments, and we are in the process of addressing those. Some of  
20 the comments were attached to your staff report. We also received comments today at the close of  
21 business from the same gentleman who commented prior to that. We did receive comments from one of  
22 the Planning Commissioners, and we shared responses to those comments via at-places  
23

24 I might just direct you to the PowerPoint. This gives, sets out the dates and the process that we're in.  
25 So next step, again, we're hoping to get to the ARB on February 18th and, as we go, we're developing  
26 the applicant here, Phil Bobel from the Public Works Department. They're getting further along with their  
27 plans, with the details that the ARB had asked for.  
28

29 Again, the State clearinghouse routing of the Mitigated Negative Declarations was a 30-day review  
30 process. It was sent out to a number of State agencies, as you can see here. One of those is the  
31 Caltrans Aeronautics Division. The first I'd heard of that. It's an oversight commission, division of  
32 Caltrans for aeronautics, and we are within close proximity to the airport, within a 10,000-foot radius  
33 there. You can see the map up on the screen is the Federal Aviation Administration's height restrictions  
34 map. In the location, and I'll just bring the little arrow down here where the Regional Water Quality  
35 Control Plant, specifically the center of the site where the proposed sludge facility is to be located. The  
36 height restriction is between 129 feet and 154 feet, I believe, and the proposed stack, ventilation stack  
37 for the building is to reach a height of 65 feet. We do allow in our Code ventilation stacks to be upwards  
38 of 15 feet above the height limit. In this case, the height limit is 50 feet, and the public facilities here is  
39 just basically a summary of that. We have filed with the Federal Aviation Administration group their 45-  
40 day review form that we are going to be hearing back about, to confirm our analysis of the height with  
41 respect to the proposed height. This also goes to the County's Airport Land Use Commission  
42 representative to, for dialog there. Some issues that have come up on the Mitigated Negative Dec have  
43 been about odor and noise. More recently, again, yesterday, today we received some email from an  
44 interested party who can't be here tonight.  
45

46 And the applicant's here from Public Works and their consultants are, have looked at these and have  
47 answers for some of these things. I put them up on the screen here. Finally, the Public Works folks  
48 have prepared some really good illustrations. One of them is at places showing a view of this, the  
49 proposed sludge facility before and after. On the left, I'll hold this up, is an image of what you can see  
50 today from the Byxbee Park, kind of the new area of Byxbee Park that's been hydroseeded of late, and  
51 then to the right you'll see the Cor-Ten steel, the kind of rust-colored building that is the proposed sludge  
52 facility, dewatering facility on the right image. I'm going to go ahead and let Phil Bobel take over. He  
53 has quite a presentation to give. So I'm going to load that up.  
54

1 Phil Bobel, Public Works Assistant Director: Jamie Allen is our Plant Manager. Kathy from CH2M Hill is  
2 here, our designer, and Padam, our Senior Engineer at the plant is here. So our staff is part of the Public  
3 Works Department, and I'm going to ask Jamie just to, in the interest of time, I know you probably don't  
4 want to go into a lot of detail here, so he's going to give you an overview of the project, then I'm going  
5 to take back over and in a little more detail address the comments that we've had so far from, really the  
6 comments that we've had are just from three folks, but they were good comments, and I think they're  
7 worth spending most of the time on those. So Jamie.

8  
9 James Allen, Water Quality Control Plant Manager: Jamie Allen, Plant Manager, Public Works. The  
10 treatment plant treats about 18 million gallons a day for six communities, Palo Alto, Los Altos, Los Altos  
11 Hills, Stanford, Mountain View and the East Palo Alto Sanitary District. It's located at the end of  
12 Embarcadero Road. There's the picture. It's got the airport and the golf course to the north, the Byxbee  
13 Park and the old landfill to the south, and the Baylands to the east and a saltwater marsh we helped  
14 convert to the west. It's 25 acres, industrial complex full of tanks, pumps. About 70 people work at the  
15 facility to keep it running 24/7. We create recycled water as well.

16  
17 We've had the incinerators in this building right here since 1972. By the time we retire them in about  
18 2018, 2019, they'll be 46, 47 years old, and the main reason we're replacing them is that they're at the  
19 end of their life, and they're also the largest City facility greenhouse gas contributor because of the  
20 natural gas that we need to burn the sludge and run the air pollution control equipment. So we're happy  
21 to get rid of them, and this project is the key piece to do that. This is a schematic. I'm not going to go  
22 into this. Phil's going to take over here.

23  
24 Mr. Bobel: I just wanted to quickly make sure, thanks Jamie, that everybody realized that, and we  
25 admitted to you, that the sewage treatment plant is kind of the big power user among the City facilities  
26 currently, and there you can see it's 27 percent of municipal operations. And the incinerator is the lion's  
27 share of the emissions from the sewage treatment plant. Not surprising to most of you, I'm sure. So  
28 that's what our incinerator looks like. Like Jamie says, we are all going to be glad when it goes away. A  
29 major greenhouse gas savings is going to be that we won't have to use natural gas any longer. And  
30 here's our projection of what this is going to do for greenhouse gases. So you can see the red bars  
31 marching toward 2014, that's the latest data point on this graph, actual data point, and we've, we think  
32 we've done some good things, and we've managed to reduce, but it'll be phasing out this incinerator  
33 that'll really give us the real jump here and get us down to that extreme right-hand small bar where  
34 we've minimizing our greenhouse gases from the facility. So we're all very excited about that. I want to,  
35 we just wanted to make sure we made the connection. That's why we're doing this thing, is to be able to  
36 phase out the incinerator.

37  
38 So here's our long-term facility plan footprint. It shows that brown area as the replacement area where  
39 we build the facilities that will ultimately completely replace the incinerator. The project before you  
40 tonight is just the dewatering facility and the truck off-haul facility. So it's an interim step that we'll be  
41 utilizing for several years, where we do away with the incinerator, we dewater the solids and we take  
42 them to most likely another sewage treatment plant where they'd be digested, because it's going to take  
43 us a long time to build the very expensive digesters that most sewage treatment plants have. So this is  
44 step one, is our dewatering facility that you're considering tonight, and it'll be along with the digesters  
45 themselves in that brown area. So you can see it's sort of central to the plant. I'm not going to go into  
46 that.

47  
48 So here's our new facility. It's that yellow-colored thing. It's a subset of that brown area I showed you  
49 in that last slide. And it's, if you recall that earlier photo, aerial, it's in an open space now, so we don't  
50 need to demolish anything to build this dewatering facility, and that's good because demolishing is major  
51 cost, major delay and also has environmental impacts. So we're essentially building in an area where  
52 there hasn't been anything. Now immediately to the left of that is our incinerator which will eventually  
53 get demolished, but that's not part of this project, to demolish that building. We're going to discontinue  
54 use of the incinerator, but it's a big building with a lot of equipment in it, and we'll figure out the best  
55 way to take it down over time. So that's where this building is, and this is what it looks like.

1 And we did have a study session with the ARB. Some of them said, gosh, this is a handsome building  
2 quote/unquote, from two of them, handsome building. And another one had a different view, and I'll get  
3 to that in a second when we look at the specific angles. But there's Cor-Ten steel, that's the kind of rust-  
4 colored stuff, and then there's concrete which is what most of our buildings are currently. So those are  
5 essentially the two finishes that you see there, concrete and Cor-Ten steel.  
6

7 And here is the west elevation that you see when you come into the plant, you will see when you come  
8 into the plant. The doorway on the extreme left is where the trucks will come through while we're still  
9 having to take this to another sewage treatment plant until we get our own digesters built. That's where  
10 the trucks will come through. And this is our best depiction of what the concrete will look like. You'll see  
11 the 4x8 panels, so it'll give it some grid, some definition, and then you see the pieces of Cor-Ten steel as  
12 well. And this is what it looks photoshopped into our, if you were at the front gate of the building, of our  
13 plant looking essentially eastward from the front gate, this is what it looks like. And we're still, and this is  
14 when I said one of the ARB members had some other ideas and used the word missed opportunity, so  
15 we're taking another look at this western exposure to see if there's, is there something more interesting  
16 we can do with respect to that angle, and I don't know if you want to get into that tonight. It's, I  
17 suppose, mostly an ARB thing, but know that that is a thing that we are looking at, possibly another  
18 window, possibly deeper scores in the concrete to give it more interest, possibly the planting of more  
19 material.  
20

21 I'll just show you right next to this, this is one of our tanks where we just did public art and planted these  
22 vines, and so actually my favorite thing to do differently with our new building is get some vines growing  
23 up next to it. We've had some success there, and I, it's actually really pretty right there. We have a  
24 planting plan. You're looking down on the building in the center, and again I suppose it's mostly an ARB  
25 thing, so I wouldn't go over the details of that, but that's one of our existing buildings. Shows that we  
26 already have this kind of look to the concrete and this is probably what we're going to try to recreate, is  
27 something that looks like our existing concrete at the other buildings. So the east elevation is the thing  
28 that points toward the old yacht harbor, if you can sort of get your bearings, the opposite side from that  
29 west elevation I was just showing you. This is what it would look like, and if we didn't do any successful  
30 planting, this is how it would like with the current planting that that's there. So there's quite a bit of  
31 planting, but this is a 50-foot building, so you can see it sticking above the existing vegetation. And with  
32 that planting plan that I just showed you, well I'm showing it to you again, the architect's depiction of  
33 what it would look like in, I believe it's 20 years is that, that basically we'd get the growth up, essentially  
34 hiding it. So the north elevation doesn't get seen really from off the site at all, so I won't focus on that,  
35 but the architect has some interesting ideas there which we liked because we'd probably use the same  
36 plant I just showed you because we have it in other places, but I personally like the idea of trying to get  
37 more vines growing up against the building. There that is again.  
38

39 So here's the fourth elevation, the south. And it points toward the Byxbee Park, the closed landfill part of  
40 Byxbee Park, and it has a combination of Cor-Ten steel and concrete. So we were asked, of course,  
41 everybody wants to know well what's it going to look like from Byxbee Park. So Byxbee Park, this is an  
42 old picture, but it's the gray area. That's our old landfill, the new Byxbee Park, and we showed some  
43 different exposures looking toward the sewage treatment plant. One commenter, I think Herb is still  
44 here. Herb said you didn't go to the highest point in the landfill. Why don't you do that and see what it  
45 looks like? Good idea, and our attorney said yeah, that was a good idea, and in fact why don't you show  
46 it with and without the building, so we've done that, not in time for this slide show, but that's the thing  
47 that Amy was talking about here. So we went up to the top of the hill, re-took the picture, photoshopped  
48 in our new building, and this is what it looks like. You might say this looks like a very far distance away.  
49 Why did you do that? Well, we, if you go up the hill, you get further and further from the thing, and  
50 these are very small slopes, so the maximum elevation at Byxbee Park is only 60 feet, but you have to go  
51 quite a ways, another 1,000 feet to get there. So it looks a good bit smaller, but from that closer  
52 elevation, this is what it looks like, and so our building is the one to the left, the tall thing to the left. The  
53 tall thing to the right is an existing building. And here it was photoshopped in with, showing the Cor-Ten  
54 steel and so that is one of the two that you, views that you see here.  
55

1 And I would just come back and show you this, because we had the comment from one of your own that  
2 it was hard to read the figures here. And as Amy just said, if you blow this up and look at it carefully,  
3 you find that our new building is right about here. So it's kind of between this 154-foot level and the  
4 129-foot level, so that's the maximum elevation that the FAA would allow us to build. Of course, we're  
5 way under that, but just Amy did misspeak a little bit. This is all in terms of mean sea level, so the mean  
6 sea level value for our stack is 75, 76 ...

7  
8 Male: 76.5.

9  
10 Mr. Bobel: ... 76.5 whereas the drawings in other places you'll see us referring to that stack as 65 feet.  
11 That's the height from the ground level, from our first-floor level.

12  
13 So those are all the slides we had, but let me just sum up the other major comments that we've gotten  
14 and some thoughtful ones from Herb Borock that I wanted to address. He asks, well wait a minute,  
15 what about hydrogen sulfide gas, ammonia, odors. We know these things come from sewage sludge as  
16 it sort of anaerobically decays sitting there. So remember this isn't a new feature really. It's replacing  
17 the dewatering facility that we already have. Currently we have belt presses dewatering, and then go to  
18 the incinerator. What we're going to be doing in the future, these, this belt press facility is 45 years old,  
19 so it needs to be replaced, but we still need a dewatering belt press operation because we need to  
20 reduce that weight of the material before we try to truck it anywhere. So this is a replacement of our  
21 existing dewatering facility is the way to think of it. And CH2M Hill, our consultant, has tried to estimate  
22 what are those kind of odor and health-related pollutants that you would be concerned about. And the  
23 main ones are the ones that Herb mentioned. It's hydrogen sulfide, ammonia and just odors in general.  
24 So our best estimate, engineering estimate is that those will not be any different than our current  
25 situation. I won't go into a lot of details, because it's kind of complicated. Our current situation and then  
26 this new situation are a little bit different, but the bottom line is that our best engineering estimate is  
27 there's not going to be an increase. There may even be a decrease, I hope, but certainly not an  
28 increase. So from a CEQA perspective, there's no increase in any of those emissions or odor. So we  
29 misstep, we took a, made a misstatement in part of the MND which we'll correct so that it's clear that  
30 there isn't an increase there.

31  
32 The other thing that came up was greenhouse gases that I already addressed, and I won't go back  
33 through that, but you saw that dramatic decrease in greenhouse gases and so several people raised  
34 greenhouse gases. I think we have a tremendous story there that's really one of the major reasons we're  
35 doing this project in addition to the incinerator being 45 years old. So greenhouse gases, great story.  
36 And I think those are the major comments. I just wanted to make sure to mention them.

37  
38 Chair Fine: Thank you. Is that all from the staff presentation? Excellent. Thanks so much. I think we  
39 have two speaker cards. Let's go for those.

40  
41 Vice-Chair Gardias: So we have two speaker cards. We have Herb Borock, followed by Ken Gottfredson.  
42 Please take five minutes.

43  
44 Herb Borock: Thank you, Chair Fine and Commissioners. Staff has said that people are going to be very  
45 happy when we get rid of the incinerators, and the plan is to replace it with anaerobic digester. In  
46 October 1972 everyone was happy that we put in incinerators that replaced anaerobic digesters, and it  
47 was the memory of those that are summarized in (inaudible) Long Range Facilities Plan for the plant that  
48 indicated the odor problems and also the fact that there was a much larger volume of sludge that needed  
49 to be trucked away compared to the volume of ash that is being trucked. Phil Bobel, I had a  
50 conversation with him which he essentially summarized regarding the sludge loader, dewatering and  
51 load-out facility, and then the dewatering part of it replacing the existing belt filter presses. And so I  
52 would think that it would be worthwhile in the MND to write that instead of just treating the new sludge  
53 dewatering as if it's being compared to an existing condition where there isn't anything else going on  
54 which is the way it seems to go, and that would then lead to the conclusion that he stated.

1 In regard to the greenhouse gases, if you look at the planned components of each of them taking place  
2 for the project, then you would be saying that the greenhouse gases, as I understand it, would be a big  
3 reduction because of the incinerator going away, but it's possible that component 2 will never happen,  
4 and that we would continue doing either trucking out as we would in the interim or having a different  
5 process. And in that case, you would have going from a state where you would have had the reduction  
6 due to the incinerators being removed, and then you would be making a choice as to what will be the  
7 new process and that would then be having an increase in greenhouse gases. It wouldn't be anything  
8 like we have now, as I understand it, but when the idea of putting in anaerobic digester or doing  
9 something else, I believe, we would have to consider that, and that would get into the comments that I  
10 had about the cumulative effect.

11  
12 My only other comment at this point relates to the Record of Land Use Action at the last item which was  
13 the term of approval. And it says that the site and design review is good for three years, and I thought  
14 that section of the Code said it was two years, and that's easily checked in the Code. Thank you.

15  
16 Vice-Chair Gardias: Thank you. Next speaker is Mr. Ken Gottfredson.

17  
18 Ken Gottfredson: Hi. I'll try and make this real quick. I'm from the airport, and I have a flying club  
19 there. I have about 500 members, and a couple dozen flight instructors. And our concern is when they  
20 do the 45-day review, I know you're underneath the plane, but there are other things that affect the  
21 airport. There's, there could be a TERPS review which would possibly change the approach that goes in  
22 there for IFR traffic. There's just recently an increase on the minimums because of the tower that went  
23 in over Shoreline, and that wasn't, had anything to do with any height restrictions, but it did change the  
24 approach, and it raised it 100 feet. And so during this FAA review, I just wondered if a TERPS study was  
25 going to be included in that. Secondly, I know, from the smokestack, I don't know if it, if there's, when  
26 air rises and small planes are flying over the rising air, if that's going to create some kind of turbulence  
27 that might affect especially for a student pilot, it might create some kind of turbulence or something like  
28 that. So I was hoping those two things would be addressed in the study. That's it.

29  
30 Vice-Chair Gardias: Thank you.

31  
32 Chair Fine: Thank you very much to both our speakers. Those were helpful. I'd like to turn it over to  
33 the Commission for a round of questions. The first light I see is Commissioner Downing.

34  
35 Commissioner Downing: If I could ask a question. What is the expected lifespan of this facility, of this  
36 particular building that you're building right now?

37  
38 Ms. French: Fifty years.

39  
40 Mr. Bobel: The equipment inside the building will all (inaudible) 50 years, but this concrete thing  
41 (inaudible).

42  
43 Commissioner Downing: So the reason why I'm asking is because it does seem clear that you guys are  
44 taking account for the floodplains, (inaudible) at the 100-year flood rise built into this building. But  
45 where I am getting concerned is, I mean there's studies out there saying that in the next 50 years we  
46 can expect the 10-foot sea level rise, and that it seems like the flood rising, the height you've added for  
47 that wouldn't account for the sea level rise as well. So what's the plan for that? How is that addressed  
48 or what's the approach to that today?

49  
50 Mr. Bobel: That's a great question, and it's larger than our sewage treatment plant, as you probably  
51 know. So we're also working on a sea level rise staff report that's going to address in a general way that  
52 question of should we be doing more at our City facilities and private-sector facilities for that matter than  
53 raising the levees. Should we be changing our Building Code requirements to make say electrical stuff be  
54 at a higher elevation or certain kinds of rooms be higher than our current 10.5 number? We're not taking  
55 a different approach for this building than the rest of the City is taking or the rest of the City facilities are  
56 taking, but it's a good question. We know we need to address it in all of the Baylands.

1 Commissioner Downing: You know, I think my concern is that for a lot of other buildings in Palo Alto, if  
2 they don't get hit with it, I mean the worst thing that's going to happen is they're going to flood, they're  
3 not going to be useful. My concern is that with this particular facility, if you guys flood, that, all of that  
4 sludge ends up in the Bay, and that's a contamination that isn't present with the rest of the buildings that  
5 we could be concerned about. And so that's why I'm asking about that, because I find that concerning,  
6 because that's 50 years of 10-foot rise. You guys are 6 feet up, so less than 50 years you will be facing  
7 that problem, so that's why I'm kind of pushing on that issue.  
8

9 Mr. Bobel: It's a bigger question, though, than this particular building, I understand, but we've got 25  
10 acres of buildings, and we know we need to address Citywide, you may be particularly worried about the  
11 sewage sludge. Other people are more worried about our communications operations at the Municipal  
12 Service Center or our airport or, everybody has their own pet facility or operation. Probably the cheapest  
13 thing for the sewage treatment, if the City doesn't end up taking action that applies to facilities in  
14 general, the sewage treatment plant would probably come back in and put in large pumps that would  
15 keep the Bay at bay.  
16

17 Commissioner Downing: If I could. How would that work? Where would these pumps go?  
18

19 Mr. Bobel: Well, first you need a dike. You need a containment facility which we're working on now.  
20 We're working through the safer project, the JPA project to increase the size and the heft of the levees  
21 and the so-called shoreline study which is the Corps' project to tie it into the rest of our partners. So  
22 between those two studies, step one is to increase the height of the levees, and then if nothing else  
23 changes, the best double protection for us would be to have a different pumping system internal to the  
24 plant.  
25

26 Chair Fine: Vice-Chair Gardias.  
27

28 Vice-Chair Gardias: Thank you. We actually talk with Chairman about the public participation, and we  
29 always find valuable comments of the public that attends our meeting, and we want them to come and  
30 attend our meetings frequently. And Mr. Borock is one of the frequent participants, and we value his  
31 questions, and we would like to ask you just to answer the or provide the comments to the questions or  
32 to the comments that they provided. So I don't know if I need to just go through this, but Mr. Borock  
33 was talking about, what I understand was pretty much the carbon footprint in terms of this, how the  
34 operations were restructured. And then also there was a comment about the land use that was for three  
35 years. It should have been two years. And then Mr. Gottfredson was talking about FAA review and also  
36 potential turbulence. So if you could just please address their comments.  
37

38 Mr. Bobel: Now?  
39

40 Vice-Chair Gardias: Yes, please.  
41

42 Mr. Bobel: So to start with the airport-related comments. We've, we're in a dual process with yours that  
43 the FAA runs, and they will decide whether, what's the name of that? TERPS, thank you. They will  
44 decide whether to do a TERPS review or not. And so that's sort of out of our hands, but the FAA process,  
45 they're, they've received what they need from us, and they're running that through their system now.  
46 And so we'll know that before we start construction or approve construction contracts on that.  
47

48 And then the second comment also good, is what about a heated air release. So currently we have an  
49 incinerator. So currently we have a lot more heated air than we will under, with this facility. This facility  
50 will actually be a dramatic decrease in heated air rising above the, this treatment plant. So this stack  
51 that looks so ominous there is the, a way to just protect our employees mostly and get the inside air from  
52 that building up and out. It's not heated. It's just the air inside the building being exhausted. There's  
53 actually two stacks. One is much lower that, where there's actually are more contaminated air that goes  
54 through a two-step treatment process and then is, is then discharged. But again, that's not heated air,  
55 and it's a dramatic reduction in the temperature of the Air. So the FAA can look at that if they choose to,

1 but they'll very quickly realize that this is a big plus. If there was any problem with the current situation,  
2 this will reduce it.  
3

4 And then Herb's comments. So Herb talked about the carbon footprint, and I was trying to address that  
5 with this greenhouse gas factsheet, because all of the things one could ask about the carbon footprint  
6 are all rolled up into these two data points, the current and then the 2019. So we took into account the  
7 truck traffic, the amount of trips that we currently make with ash, and the amount that we make in 2019  
8 with the raw sludge. We took into account the actual emissions from this process, and this is the net  
9 result. So like I say, we think we have a extremely good carbon footprint story to tell, and it's one of the  
10 biggest reasons we're doing this project.  
11

12 Now, Herb had some other comments too that you didn't, which I tried to address and you didn't just  
13 restate them. So I won't go back through them, but he had some other pollutants that he was  
14 concerned about, and I tried to address those as we were going through the slides.  
15

16 Vice-Chair Gardias: And that's a error, I think it was just an error of three years as opposed two years.  
17 Is this ...  
18

19 Mr. Bobel: I don't know. What the three year versus two year?  
20

21 Cara Silver, Senior Assistant City Attorney: The Code does specify a two-year term for this permit, so  
22 construction needs to start within two years of issuance of the Council's approval.  
23

24 Mr. Bobel: Okay. We want to kill that dead. We want to start within a few months.  
25

26 Vice-Chair Gardias: So it's going to be corrected. Very good. Thank you. If you don't mind. Thanks  
27 very much for all this.  
28

29 Mr. Bobel: Yeah, we'll change those things. And Herb also, one of the reasons that he went down a  
30 certain path with his comments is that he was triggered by a statement in our MND which needs to be  
31 changed. So I agree with you wholeheartedly. It definitely helps to have Herb going through this stuff.  
32 So we'll make the changes that he helped us realize need to be changed.  
33

34 Vice-Chair Gardias: Thank you very much. We appreciate you just making these changes and  
35 responding to his comments. So if you don't mind, just I am going to have couple of questions from my  
36 side. So in terms of the truck traffic. So there is, currently there are no trucks, so there is going to be,  
37 could you tell us how many, how, what, how frequent would be the traffic, how large, what are the risks,  
38 and some other issues related with these trucking operations, the hours of the, of moving the sludge and  
39 so forth?  
40

41 Mr. Allen: At build out, it's up to five trucks a day. We'll probably start out with three, maybe four. And  
42 that hauling contract which we'll bring to Council, we're going to look for a lot of operational flexibility so  
43 that we have options to take it to various different treatment plants, but we'll be working that out in the  
44 future. Right now we do one truck a week, the ash. So it's a 20:1 volume reduction using an incinerator,  
45 so we do currently one ash haul-out a week. This will be for starters about 20 haul-outs a week let's say.  
46

47 Mr. Bobel: The thing to know is the, one reason I'm personally excited about this project is we're  
48 currently hauling the ash, sorry. We're currently hauling the ash to Beatty, Nevada, right Jamie?  
49

50 Mr. Allen: We take it to a hazardous waste landfill because it's hazardous waste.  
51

52 Mr. Bobel: And I forget how many miles that is, 300 approximately, I think. And so we're talking about  
53 although three to five truck trips a day, I hope it can be to our neighboring Redwood City sewage  
54 treatment plant which is only 20, 25 miles a day. So that's why when you do all the math on these truck  
55 trips, you don't see an increase from this.  
56



1 Vice-Chair Gardias: And then those trucks, I mean what's, I mean they will be loaded and leaving at  
2 different, various times, because probably loading is going to take a while.  
3  
4 Mr. Allen: Loading is 10 to 15 minutes.  
5  
6 Vice-Chair Gardias: So but they will be ...  
7  
8 Mr. Allen: They might prefer off rush hour times, but they may, based on where they're taking it, they  
9 may prefer daytime hours. So we're looking for maintaining flexibility when we set up that contract.  
10  
11 Vice-Chair Gardias: And what sort of trucks those are? Those are like lorries with open beds or what's ...  
12  
13 Mr. Allen: They're 40-foot long semis with roll, the bins that, the truck goes up so the sludge can slide  
14 out the back, wherever they're going.  
15  
16 Vice-Chair Gardias: It's like gravel, right?  
17  
18 Mr. Allen: Right.  
19  
20 Vice-Chair Gardias: So I hope there is no risk of spilling the sludge or, because there is sometimes, and  
21 gravel can spill on the motorway and puncture people's windshields. I don't think this would puncture  
22 anybody's windshield, but the effect may be not pleasant.  
23  
24 Mr. Bobel: We haven't lost any ash yet, which is what we're currently hauling.  
25  
26 Vice-Chair Gardias: Thank you. So I have different comment about the structure itself which goes  
27 beyond the purview, but out of curiosity. So there is, on the second floor, there is this perforated  
28 weathering steel screen wall, and you provided sample of this. What is the purpose of this wall besides  
29 screening? Does this have any physical use or is it just a decoration?  
30  
31 Mr. Allen: Yeah, it's just screening, an aesthetic. Aesthetic value in screening of the equipment.  
32  
33 Vice-Chair Gardias: And the last comment is maybe from a different angle. So are you planning to open  
34 this facility to public, to schools for I'll say educational facility?  
35  
36 Mr. Bobel: Jamie and I always disagree on this one. Go ahead, Jamie.  
37  
38 Mr. Allen: Due to the industrial nature, it's not, it's only for authorized personnel, but people will be able  
39 to walk around the outside of the building.  
40  
41 Mr. Bobel: We currently have school groups that tour the facility. We won't take them in this particular  
42 building. It won't be too interesting to them anyway.  
43  
44 Vice-Chair Gardias: But they can see our (inaudible), they can see the basis, how this ...  
45  
46 Mr. Bobel: Yeah. They can see this building from the outside, and we'll have, we'll enhance and redo  
47 our outreach materials so that they can see what is going on inside.  
48  
49 Vice-Chair Gardias: And the last question that's also not related. It's just a, there was on the edges of  
50 the lot, there seem to be some unused land. Are you planning maybe just release this land for the public  
51 in the future? It's like on the north end.  
52  
53 Mr. Allen: A lot of the perimeter areas are trees that screen the plant, screen the treatment plant so that  
54 when people are using the Baylands or Byxbee Park, we are not intruding upon the visual space of the  
55 Baylands. So we, if we were to lease it, we'd pretty much have to clear it and then it becomes an issue  
56 of aesthetics in the park.

1 Mr. Bobel: Were you thinking of some of these areas where ...  
2  
3 Vice-Chair Gardias: That's right, on the left side.  
4  
5 Mr. Bobel: The left side?  
6  
7 Vice-Chair Gardias: Yeah.  
8  
9 Mr. Bobel: We'd have a lot of disappointed people if we tried to take some of those trees down, but that  
10 is an option for some of our facilities, is to thin out or make that buffer smaller on Embarcadero Road  
11 side. So we're considering that, but we're trying as hard as we can to keep stuff in the center of the  
12 plant and keep all the vegetation that we can.  
13  
14 Vice-Chair Gardias: Because it's just, I know this is a different story. But there is a, for Greg Schmid and  
15 myself, that we run 5 kilometers, 5,000, so there is this nice waving path that goes along your fence, and  
16 then when you hit the road, then pretty much there is just a straight sidewalk, so it would be nice to  
17 continue this farther along.  
18  
19 Mr. Bobel: Along Embarcadero Way?  
20  
21 Vice-Chair Gardias: That's right, Embarcadero Road.  
22  
23 Mr. Allen: That's the new landscaping project, Phil, where we put in a wavy path in the northern end of  
24 the property. It ties in with the bike path.  
25  
26 Mr. Bobel: Have we done something that's prevented you from, I'm not following you exactly.  
27  
28 Vice-Chair Gardias: That's, the first part of this pathway is very welcoming.  
29  
30 Mr. Bobel: I see.  
31  
32 Vice-Chair Gardias: The second path, it's not, it looks like this, it's just a straight path, so it's not as nice  
33 as the first portion.  
34  
35 Mr. Allen: Are you talking about that commercial building at the northwest corner?  
36  
37 Vice-Chair Gardias: I'm talking about that portion from the incinerator building to the lower left corner.  
38  
39 Mr. Bobel: Maybe you can show us after ...  
40  
41 Vice-Chair Gardias: I will show you later. It's out of scope.  
42  
43 Mr. Bobel: We want to enhance all those trails around there. The current area where we're sort of  
44 challenged is on the right-hand side of this. We have a complication of it being the so-called Measure E  
45 site, and we're still finishing the capping on the landfill over on the right side of that drawing. So you'll  
46 see an improvement there, and you'll be able to jog more successfully around that side soon.  
47  
48 Vice-Chair Gardias: Great. Thank you.  
49  
50 Chair Fine: Commissioner Tanaka.  
51  
52 Commissioner Tanaka: One quick question, and then I'd like to make a motion. So the quick question is,  
53 so I guess in 1970 we had an aerobic digester, right?  
54  
55 Mr. Bobel: Nineteen what?  
56

1 Commissioner Tanaka: Around 1970, a long time ago.

2  
3 Mr. Bobel: Yeah.

4  
5 Mr. Allen: We had an aerobic digester from 1934 to 1972. In the 1960s, the EPA said you cannot use  
6 digesters anymore, because the electronics industry, heavy metals were disrupting the biological process,  
7 and so the, that's what Herb mentioned. We had odors in the sludge that was being dewatered out  
8 where the current landfill is. And so the digester didn't work, so we put in incinerators. Of course, since  
9 then the metals have been removed from the sewage, and it would work if we put in digesters now. But  
10 that's why we went with incineration at that time.

11  
12 Commissioner Tanaka: So all the problems have been solved then. It will actually work now.

13  
14 Mr. Bobel: Yeah, we're going full circle here.

15  
16 MOTION

17  
18 Commissioner Tanaka: I'd like to make recommendation, I'm sorry, a motion that, yeah, that we  
19 recommend approval to the City Council. Here it is. We recommend approval of the Mitigated Negative  
20 Declaration and the site and design review application for the sludge dewatering and load-out facility at  
21 the Regional Water Quality Control Plant.

22  
23 SECOND

24  
25 Commissioner Alcheck: Second.

26  
27 Chair Fine: Thank you, Commissioner Tanaka and Commissioner Alcheck. We have a motion on the  
28 floor. I'll restate it in a little bit. I still have a few lights that I want to go through. I think next was  
29 Commissioner Rosenblum.

30  
31 Commissioner Rosenblum: My question was about the truck traffic, which was just addressed by  
32 Commissioner Gardias. I have no other questions.

33  
34 Chair Fine: My next light is Commissioner Alcheck.

35  
36 Commissioner Alcheck: I yield (inaudible).

37  
38 Chair Fine: Commissioner Waldfogel.

39  
40 Commissioner Waldfogel: Thank you. I think this is an important project, and we need to get it done.  
41 I've been watching this for several years, and it's kind of, it's exciting to see the progress. But I think the  
42 thing we, one thing we have to keep in mind is that now the airport is our City facility, and we don't want  
43 to do anything that affects the evolving business plan for the airport. And in fact we have the option  
44 under State law to, and Federal law, to set lower height limits or even to provide what's called a  
45 navigation easement over the treatment plant to ensure aviation uses in that area. And as we know,  
46 even the landscaping is a potential issue. The problem I have right now is that we didn't start the FAA  
47 work until this week literally. And we know, we heard from of Mr. Gottfredson that obstructions that are  
48 even under this FAR Part 77 surface can affect the instrument approach. They can affect aviation  
49 operations. We haven't heard any analysis about whether construction will affect airport operations,  
50 whether the approach will be taken out of service for certain days during construction because of crane  
51 obstructions or other issues. And all these things affect the airport's business model, and so it's really  
52 hard for me to support this today until we finish that work. So I guess one question is how long is it until  
53 we finish that work, 'til we do a business model, a business impact analysis on the airport, 'til we  
54 understand whether or not just if this meets the, this basic FAR Part 77, but if there are additional  
55 impacts on air space. You know, that's not a question that I think anybody in this room can answer as of  
56 this second, so when do we, when will we know the answers?

1 Mr. Bobel: As you probably know, the FAA says that their timeframe is a minimum of 45 days. And  
2 you're right; we didn't start the process as soon as we should have. However, as a practical matter,  
3 we're not anticipating any problems. We've talked to our Airport Manager, Andy Swanson. I've asked  
4 him your question about the business plan. He doesn't envision modifying the business plan or, I'm just  
5 not seeing how it would impact the business plan of the airport. So ...

6  
7 Commissioner Waldfogel: But have we analyzed that?

8  
9 Mr. Bobel: Huh?

10  
11 Commissioner Waldfogel: Do we have any analysis?

12  
13 Mr. Bobel: Of the business plan for the airport?

14  
15 Commissioner Waldfogel: Do we have any analysis whether this, I mean since we don't know the impact  
16 on airspace, do we know whether there's any impact on the airport or can we just commit that if there is  
17 impact that we'll modify this project?

18  
19 Mr. Bobel: I think we could commit to that, because there's so little likelihood. I mean, you've seen the  
20 photographs. This is, just becomes one of many buildings at our sewage treatment plant that are of that  
21 same ilk. As far as the cranes go, we submit the FAA form when we bring a new crane onsite already.  
22 We had a 120-foot crane out there earlier this year, as you may know, and that's far taller than any of  
23 our buildings. And so we're used to working with the airport on cranes. And will there be tall cranes out  
24 there during construction? Yes. Have we had them out there many months out of the year? Yes, we  
25 have cranes out there all the time, and we work with the FAA to alert them of that. So I just don't  
26 foresee a problem. I mean, we, they didn't have a problem with our 120-foot crane. I can't imagine  
27 they're going to have a problem with ...

28  
29 Commissioner Waldfogel: You're actually, you're, I think that's a misleading response, because what the  
30 FAA does with that filing is they will shut down a piece of airspace. I mean, if you say I'm putting a  
31 temporary crane into an airspace, they issue a notice that says I'm shutting down something. So that is  
32 a slightly misleading response. Until we talk, the tower manager isn't here, the Airport Manager isn't  
33 here. We don't really know what we're talking about.

34  
35 Mr. Bobel: The Airport Manager has said he doesn't anticipate any problems. I can tell you that.

36  
37 Male: Could I just say one thing (inaudible)? The Airport Manager isn't an expert on TERPS, and so he  
38 isn't qualified to make (crosstalk).

39  
40 Chair Fine: Let's keep public comment to public comments please. Thank you.

41  
42 Mr. Allen: One thing the airport staff said is that the local staff do not make the determination of air  
43 traffic safety. So asking us to make the determination of air safety isn't something that we do. But from  
44 our analysis, we are below the obstruction height by 50 feet for our stack. And so we had to notify the  
45 FAA because we were within a one to fifty surface within 10,000 feet of the end of the runway. That  
46 triggers a notification requirement. Just because we notified the FAA doesn't mean that we created an  
47 unsafe condition. So they, we had to submit this within 45 days before the start of construction which is,  
48 it was submitted in time. We were not going to start construction within 45 days, and their review takes  
49 30 to 90 days, but we're, like we said we're not anticipating any issues with the FAA. And Caltrans  
50 Aeronautics has already reviewed the CEQA through the State clearinghouse, and they had no comment.

51  
52 VOTE

53  
54 Chair Fine: Thank you very much. I think we can all acknowledge the FAA will overrule any of us. With  
55 that, I don't see any other lights. Shall we put this to a vote? So the motion as it stands is that we are  
56 moving to recommend approval of the draft Mitigated Negative Declaration and approve the site and

1 design review application necessary for the Record of Land Use Action. Does that state (inaudible)? All  
2 those in favor. All those against. One against. Thank you all so much. This item is closed. A few more  
3 things guys.

4  
5 MOTION PASSED

6  
7 **Commission Action:** Commissioner Tanaka moved to approve staff recommendations, second by  
8 Commissioner Alcheck. Passed 6-1 with Commissioner Waldfogel dissenting.

9  
10  
11 **Minutes Approval:** November 18, 2015 and December 9, 2015

12  
13 Chair Fine: So we have minutes from November 18th and December 9th. Would anybody like to make a  
14 motion around those minutes?

15  
16 MOTION

17  
18 Commissioner Alcheck: (inaudible).

19  
20 Chair Fine: There's a motion by Commissioner Alcheck to approve the minutes of the 18th and the 9th.  
21 Do we have a second?

22  
23 SECOND

24  
25 Vice-Chair Gardias: Second.

26  
27 VOTE

28  
29 Chair Fine: Second by Vice-Chair. All those in favor. All those against. Abstain.

30  
31 Commissioner Waldfogel: I'm just worn out, so I'll vote for it.

32  
33 Chair Fine: You don't have to vote. It's up to you.

34  
35 Commissioner Waldfogel: I mean, they're incomplete, but ...

36  
37 Chair Fine: So Commissioner Waldfogel did say that some of the minutes had a lot of unintelligible,  
38 which I know is when the recorders can't actually read, let's just keep an eye out for that. If it happens a  
39 lot more, let's figure out what's wrong with these things.

40  
41 **Commission Action:**

42  
43 **Commission/Staff Announcements & Future Agenda Items:** Members of the public may not  
44 speak to the item(s).

45  
46 Chair Fine: Any Commission or staff announcements, future agenda items, or do we all want to just ...  
47 Nope, all right. We're ending this meeting at 10:31. Thank you all so much.

48  
49 **Adjournment: 10:31 PM**