



Planning & Transportation Commission Action Agenda: March 28, 2018

Council Chambers
250 Hamilton Avenue
6:00 PM

Call to Order / Roll Call

6:01pm

Commissioner Riggs absent.

Chair Lauing: [Video started mid-sentence] regular meeting for March 28, 2018. Will you please call the roll?

Yolanda Cervantes, Administrative Assistant: Commissioner Alcheck, Commissioner Gardias, Chair Lauing, Vice-Chair Monk, Commissioner Riggs, Commissioner Summa, Commissioner Waldfoegel. Six presents, one absent.

Chair Lauing: Ok thank you.

Oral Communications

The public may speak to any item not on the agenda. Three (3) minutes per speaker.^{1,2}

Chair Lauing: I don't have any speaker cards for oral communications on items that are not on the agenda. Last call.

Agenda Changes, Additions, and Deletions

The Chair or Commission majority may modify the agenda order to improve meeting management.

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1 **City Official Reports**

2 1. Assistant Directors Report, Meeting Schedule and Assignments

3 Chair Lauing: So, we'll move onto Item Four the official reports from the City. Assistant Director
4 and others. Assistant Director Lait.

5
6 Mr. Jonathan Lait, Assistant Director of Planning: Great, thank you so just two items to report.

7 One is that the City Council considered the planning code amendments at their... I think it was
8 their last or second to last meeting. This is a set of ordinances that the Commission has
9 reviewed previously. The Council endorsed all of the changes with the exception of two areas.
10 There was... They weren't able to get to a resolution on these sort of outdoor kitchens or fixed
11 barbeques and so that was pulled from the list of changes. And then we also had a provision
12 dealing with single-family homes that if a single-family home was demolished and replaced with
13 a single-story home that a second story addition would not be allowed for a five-year period if
14 that demolished structure was historically significant or potentially significant structure. But
15 that one ultimately did not go forward so other than those two items the rest of the
16 amendments went forward.

17
18 And then on April 11th, the City Council will be taking up the Affordable Housing Combining
19 District Ordinance which the Commission recently discussed on March 14th and that concludes
20 the report.

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1 Vice-Chair Monk: Is there a change from the normally scheduled Monday night meeting
2 because I think April 9th is the Monday. I think you said April 11th.

3

4 Mr. Lait: Oh yeah no I could be wrong about that. Maybe (interrupted)

5

6 Vice-Chair Monk: It's on the Monday night [unintelligible]

7

8 Mr. Lait: April the 9th, that's correct. Thank you.

9

10 Chair Lauing: Commissioner Gardias.

11

12 Commissioner Gardias: Thank you. So, I actually had a question to Director Gitelman. She
13 stepped away for a moment but maybe Director Lait could help us with the answer. So, we
14 exchanged emails right before the weekend and I believe that you were copied on those emails.
15 And the subject of those emails was how we can pursue further work on affordable housing
16 and there was one item that was... that Director Gitelman related to or referred too which was
17 a consideration of the Policy and Services Committee that was where the City Council directed
18 its question about inclusionary policy consideration. And I would like to know when there
19 would be an outcome of that deliberation out of that Commission because it is a dependency
20 for farther work on affordable housing.

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Mr. Lait: I'm sorry I don't really fully understand the question but I'm also wondering if there's a time later in the agenda when we might want to talk about that specific issue. Unless it's related to the Affordable Housing Ordinance that's going to the Council on the 9th. Is that related to that aspect?

Commissioner Gardias: It is related in this way that pretty much there's an opportunity for us to continue work. We only directed to the Council affordable housing up to the 60 AMI ceiling. But then the Ad-Hoc Commission or Committee never approached the segment above it between 60 and 100 percent of AMI. And we would like to continue work on this item as well but it looks that the outcome of the Policy and Services Commission is a dependency for that work. So, I would like to know pretty much when the Commission is expected to finish its work (interrupted)

Mr. Lait: Ok thank you.

Commissioner Gardias: So, we can start ours.

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1 Mr. Lait: Sure, now I understand the question now and I would say to that, that the... And
2 you're referring to when you say Commission, you're referring to the Ad-Hoc Committee I think
3 that the Planning Commission formed.

4

5 Commissioner Gardias: Correct.

6

7 Mr. Lait: I think the Committee has done its work and its recommendation was presented to
8 the Planning Commission on March 14th and that recommendation has been forwarded to the
9 City Council. So, we're waiting to hear what the Council has to say on April 9th and that will
10 provide further direction to Staff and the Commission on how to proceed.

11

12 Chair Lauing: I was... I just wanted to add I was copied on those memos to Hillary and yourself. I
13 think part of it was that a future item is dependent on first hearing from the Policy and Services
14 Committee of the Council which was part of the reference from Commissioner Gardias. So, I
15 think one of the embedded questions there was when we might talk about that when that
16 report is out but I don't know that anyone knows when that report is going to come from Policy
17 and Services Committee yet. There's some item on the Housing Work Plan that is dependent
18 on first going to housing... Sorry, first going to Policy and Services.

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1 Mr. Lait: Ok well again I would say that I think we're coming back to you at your next meeting or
2 the meeting after that to have a continued conversation about the Housing Work Program. So
3 that would probably be the best time to consider those scheduling matters then.

4

5 [The Commission moved to Item Number Three]

6 **Study Session**

7 Public Comment is Permitted. Five (5) minutes per speaker.^{1,3}

8 **Action Items**

9 Public Comment is Permitted. Applicants/Appellant Teams: Fifteen (15) minutes, plus three (3) minutes rebuttal.
10 All others: Five (5) minutes per speaker.^{1,3}

11 2. PUBLIC HEARING / QUASI-JUDICIAL. 3225 El Camino Real [17PLN-00007]: Request for
12 a Vesting Tentative Map to Subdivide a 29,962 Square Foot Parcel Into two Parcels
13 Comprised of one Commercial Parcel and one Residential Parcel for Condominium
14 Purposes. Environmental Assessment: Subdivision was Included in the Project Scope
15 Outlined in the Initial Study Mitigated Negative Declaration (IS-MND) Prepared for
16 the Associated Development Application (15PLN-00003); Approved by the Director of
17 Planning & Community Environment on April 21, 2016. Zoning District: Service
18 Commercial (CS). For More Information, Contact Phillip Brennan at
19 phillip.brennan@cityofpaloalto.org (Staff Requests Deferral to April 25, 2018)

20

21 Chair Lauing: Do we have such a motion? Commissioner Gardias motions.

22

23 MOTION

24

25 Commissioner Gardias: Yes, I'm going to propose a motion to... of Number Two continuance to
26 April... I'm sorry, April? 25.

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1 Chair Lauing: Ok then we need a second.

2

3 SECOND

4

5 Commissioner Summa: Second.

6

7 VOTE

8

9 Chair Lauing: Any discussion? All in favor say aye. Any opposition? No opposition. That's moved
10 to April 25th.

11

12 MOTION PASSED (6-0 Commissioner Riggs absent)

13 **Commission Action:** Motion was made by Commissioner Gardias to defer item to April 25, 2018
14 (Second Commissioner Summa). Motion passed 6-0 (Riggs absent).

15

16 [The Board moved to Board Member Questions, Comments, Announcements and future
17 agendas]

18 3. PUBLIC HEARING: Recommendation of an Ordinance to the City Council Amending
19 Palo Alto Municipal Code Section 18.42.040 Pertaining to Accessory and Junior
20 Dwelling Units. The Proposed Ordinance is Exempt from the California Environmental
21 Quality Act (CEQA) Pursuant to Public Resources Code Section 21080.17 and CEQA
22 Guidelines Section 15061(b)(3). For More Information, Please Contact Clare Campbell
23 at clare.campbell@cityofpaloalto.org.

24

25 Chair Lauing: Ok. We'll now go to comments from the public and I have two cards right now.

26 They are both on Item Number Three. Item Number Two as was previously published but we'll

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1 announce that it's changing. It's been postponed until April 25th so Item Number Three
2 (interrupted)

3

4 Mr. Lait: So, I'm sorry Chair. If we can get a motion on Item Number Two just to continue it to
5 April 25th.

6

7 Chair Lauing: Ok I didn't realize you wanted that.

8

9 [The Commission moved back up to Item Number Two]

10

11 Chair Lauing: Then we'll go to public comment on what's listed as Item Number Three which is
12 ADU. The first speaker is Amy Sung.

13

14 Ms. Amy Sung: Hi, good evening, my name is Amy Sung. I am a homeowner and resident of Palo
15 Alto. So, I am here to thank the PTC to take the time to discuss all these details about ADUs and
16 specifically I have a few comments about the Staff recommendations.

17

18 First of all, I think that the permit fees ideally should be capped at around \$1,000. Right now, if I
19 look at the fee structure for the permitting process is almost \$10,000. And that is in addition to
20 the Building Permits and all other fees. For example, if you are [unintelligible] water meters or

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1 electrical meters and those are really expensive because really it isn't [unintelligible] high. If we
2 looked at other comparisons that Menlo Park is asking \$700 and then in other community, I
3 think they are asking somewhere around less than \$1,000. So, I would urge you that PTC to look
4 into dramatically reduce the fees and that would really really help the people that want to go
5 through with the City's ADU process.

6
7 In addition to the cost, the construction and the process of remodeling, not every homeowner
8 considers themselves builders or remodeling experts. So, I would think that if the PTC and the
9 City can have a series of four to eight pre-permitted prototypes that allows homeowners to
10 come and select one of the models that they envision that it can install in their own home. That
11 would greatly encourage homeowners to go forward to the process. I looked at the stats that in
12 the past ADUs have been under average four a year and it is so encouraging that we are looking
13 at almost eight times to nine times of the past historic norms. And so, this is an encouraging
14 sign and I think that if we can do more by further streamline the process just like along the line
15 of helping homeowners envision because it's just that not everybody is ready and able to
16 undertake such a big project.

17
18 And I also would like to comment on a couple items that is on your recommendation list. I
19 would also... I notice that there is a basement in ADUs. I would like to encourage you to allow

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1 the habitable space in the basement areas so that means that ADUs you permitted basements
2 so that it will greatly increase the living pleasure and also utilize the available land.

3

4 As far as the owner occupancy requirement, we see a lot of homes that have been rented out
5 and seeing this storage of the housing supply, I would encourage you to eliminate the owner
6 occupancy requirements. I think that would be a good direction to go too.

7

8 And the other one that's regarding ADUs in front of a home. Actually, I think that we add
9 interesting dynamics to the landscape. That really as a City that I think that we are in a
10 transition and that really will give our City a sense of a revival and entering into the new
11 century. So, I would encourage the PTC to allow the ADUs in front of the home. ADU right now
12 it still compromises a small portion and if we can be more creative and thinking outside of the
13 box I think that will show a sign that we are fully behind this initiative and wanting to show the
14 community that we are serious about getting ADU into our community and integrated into part
15 of our existing community. And I really appreciated that 50 percent rear yard coverage that is
16 applied to ADU. Well, thank you.

17

18 Chair Lauing: Thank you. The next speaker is John Kelly.

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1 Mr. John Kelly: Chair Lauing, Vice-Chair Monk, Commissioners, I want to put my cards on the
2 table at the beginning. My wife and I are thinking about building an ADU so obviously I'm biased
3 but I hope you would still consider what I have to say.

4
5 First of all, I want to commend the City Staff on what I think is really an exemplary report. It's
6 seldom that I've seen a report that is as specific and as detailed and as nuanced as the report
7 that the Staff has presented to you tonight. I think a lot of homeowners are interested in
8 building ADUs in Palo Alto and while it's great that we've gotten from four to roughly thirty or
9 forty. You know roughly one order of magnitude I think there's a lot more work to be done. I
10 think the City should have a goal of trying to approach over 100 ADUs per year and that would
11 make a substantial contribution towards meeting the City's housing goals as outlined in the
12 Comprehensive Plan so that's just an overview.

13
14 I'd also like to associate myself with three of the things that Amy just told you. The first is I do
15 think the fees have to come down. If they could come down to a thousand that would be
16 fantastic but any significant reduction would really increase homeowner interest I think in
17 building ADUs. At the current level, they represent a very substantial portion of what might be
18 architectural fees or engineering fees for constructing ADU. So, it's like saying you got a double
19 the Staffing just to get the plans built and I think that's really impediment. Especially given the
20 relatively high cost of construction in Palo Alto. The other thing I definitely agree with Amy

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1 about is the need for the prototypes. In fact, that was one of the items in the Staff report that I
2 thought was most nuanced. The Staff wrote given sufficient Staff and financial support the City
3 could also offer technical and educational systems. For example, the City could develop
4 prototype designs for ADUs that can be readily utilized for the permit process and can be
5 approved more expeditiously. That to me is perhaps the most important thing in this report
6 other than the specific recommendations that the Staff has made because if you do that, you're
7 going to open the doors for a lot of people who want to build ADUs. And it's really going to...
8 It's going to change the availability of a completely different class of housing in Palo Alto. I think
9 also Amy is quite right in saying that some ADUs and perhaps it should be done on a case by
10 case basis should be available in front yards. Two... really one and a half blocks from our house
11 there's an example of what I think is an outstanding ADU on Melville. I don't know the exact
12 address but it blends in perfectly with the rest of the neighborhood and perhaps there should
13 be some additional... I know you can't require design considerations but I think if you were to
14 allow this on a case by case basis the City Staff would be... could be empowered to decide
15 whether a front yard ADU is appropriate for a given block. And I do know that they can be built
16 and I do know they can be built very successfully. They already exist here in Palo Alto.

17

18 I would like to add a couple more things about the... Not so much the fee issue but also the
19 issue that's addressed in the Staff report about dealing with what are... I know what
20 terminology you want to use for them but essentially non-conforming ADUs of present or ADUs

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1 that have to be retrofitted to come up to Building Code standards or with the current
2 ordinance. I think this is a real problem. The problem has been compounded by the fact that as
3 far as I know, the City has no effective senses on the number of those ADUs. And I think both
4 you and the Council are going to struggle with this issue because if we end up... we could have a
5 lot of these non-conforming ADUs at present. We don't really know. There's a lot of hearsay.
6 The walking that I've done in various parts of the City suggests to me that there are a great
7 many of them. If that's the case and if you're not serious about trying to deal with the problems
8 that those people confront and trying to bring their ADUs up to code and you don't give them
9 the sufficient time. We could have a situation which the new ordinance which was supposed to
10 promote better and more diverse housing in Palo Alto actually ends up having an unintended
11 consequence of achieving precisely the opposite result. So how to deal with that? I personally
12 think there are two things that make a lot of sense in the Staff report. The first is the Staff
13 mentioned the notion of an amnesty process. I think that would be highly desirable, particularly
14 if people had say a year or two to get up to code. I do not think however that we should have a
15 case by case determination because that's going to lead to a lack of certainty and a lack of
16 certainty is ultimately going to drive up costs.

17

18 So, I would encourage you to address the fee issue, I would encourage you to strongly commit
19 yourselves to the prototype issue and actually perhaps direct Staff to come back with a
20 proposed project for doing that and showing what it can do. And I want to again urge you... I

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1 don't think I said this at the beginning but I strongly want to urge you to adopt the
2 recommendations in the Staff report. Thanks.

3

4 Chair Lauing: Thanks very much. The third and last speaker is Martin Bernstein.

5

6 Mr. Martin Bernstein: Thank you Chair Lauing. Martin Bernstein speaking as an individual. If you
7 can refer to your Packet Page 20 and its Item Number Two, Applicable Zoning Districts and I
8 would like to suggest that you consider adding this one last sentence. So, after where it says
9 "and planned community PC" the next semi-colon would read my suggestion is "in zones with
10 existing residences where residences are not permitted." Thank you.

11

12 Chair Lauing: That was very concise, thank you.

13

14 Mr. Bernstein: Does anyone need for me to repeat that? Ok yeah. On Page Packet 20,
15 paragraph two Applicable Zone Districts. After where it says "planned community PC" semi-
16 colon "in zones with existing residences where residences are not permitted." The idea of that
17 is that if it's already residential use and we're encouraging ADUs. So, my suggestion is that the
18 residences exist, zoning doesn't exist, zonings are just the words on paper but residences and
19 usages is what's... where we live so it's a continuation of the spirit of the ordinance. Zoning
20 districts can also... Zones can also change too but residences are there. Thank you.

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Chair Lauing: Ok thanks. Assistant Direct Lait, did you want to go through slides?

Mr. Lait: Sure. Actually, I'll be somewhat brief on that and I think the Commission familiar with the background of how we got to where we are. There's been a more recent amendment that has been presented to the City Council earlier this year to implement state-mandated changes. The Commission looked at those changes and those were approved by the Council. This set of... These set of changes in this ordinance are some other ones that are not state mandated but Staff is presenting in an effort to help improve the administration and usability of these regulations.

I think there's nine proposed and this presentation has some pages numbers we can decide how we want to go through each one of those and we can approach those. I would suggest that we could... we'd really welcome some feedback on these other policy items that the City Council had asked of us. And the one has to do with how do we make these more accessible to low-income residents? Seniors, people with disabilities or public employees. And the other item being how do we approach the non-conforming or bootlegging ADU units that are out there but unrecognized and some of which may not comply with certain technical codes, it may not comply with zoning codes and so maybe we can have a little discussion about how to address

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1 that to so we can present some thoughts to the City Council. But other than that, I'm happy to
2 walk with the Commission through any of the proposed changes.

3
4 Chair Lauing: Ok so as you... just to kind of help frame this and get any feedback from Staff on
5 this that they would like. To frame it over on Page... Packet Page 12 where you note that Staff
6 sought to advance language that would help address some administrative challenges and
7 improve the effectiveness of the ordinance. So that's your intent and I think we can follow that
8 intent unless there are objections from the Commission but it doesn't seem like policies from A
9 to Z are on the agenda tonight. As top of this, this is a revised of an ordinance that Council has
10 already passed and we're about nine months into the initial ADUS, correct?

11
12 Mr. Lait: Yeah thanks for that clarification. I think what the Council has asked us to do is to have
13 this sort of assessment after the ordinance got established and so we're coming back with that
14 assessment. We haven't heard from... I personally have not heard from anybody with
15 complaints about ADUs that have been going through the process. We've been hearing a lot
16 from homeowners who want to have ADUs and some of the conflicts they've been having
17 relative to their unique site conditions and the ordinance. You know many of these that have
18 been reviewed and permitted, maybe they are not even built yet so we may have not even
19 heard sort of the other part of the story about when these things actually get established. But
20 you're right, this is not a... we're not looking to make major policy changes. I think the Council

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1 was pretty clear when they adopted the ordinance about sort of the framework about what we
2 have here and the changes that we're trying to make or simply trying to continue to advance
3 those policy objectives while still balancing these other challenges that we've experienced at
4 the counter.

5

6 Chair Lauing: And your comments so far are based on thirty-one data points in the last six or
7 nine months. So, if we looked at this again in another year there's just going to be a lot more
8 information that you can pass along.

9

10 Mr. Lait: That's true and I imagine we'll probably come back in a year with... I imagine the state
11 may be still be tinkering with the ADU regulations (interrupted)

12

13 Chair Lauing: Probably.

14

15 Mr. Lait: And I think that after we get some more information we'll want to come back as well.
16 I will say beyond the thirty-one formal or thirty-eight now applications, we have a tremendous
17 amount of conversation with people on the phone, at the public counter, who are just asking
18 sort of hypothetical questions or trying to explore what-if scenarios on their property or a
19 friend's property or a client's property. And so, there's... these changes really stem from a lot of
20 that kind of conversation.

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Chair Lauing: So, in some of those conversations you said that's a good question. Let's think about that and this is now embedded in a couple of these changes. Ok good just so we're on the same page there. So just looking a process for it, for one thing, this is our second study session and we have an ordinance here so in my view that's highly preferable to having an ordinance come in the first study session and it was actually a very long original study session. So, I like to see that process but I'm thinking we should go through here with a round of questions and comments together. Then what I'll call a base motion on the table, it could be the Staff motion or something with a change or two, and then look at other amendments that we might want to make to that just as a structure. And I would suggest that we do that and then since the two questions that you asked for comments on are not in the ordinance, then we pick that up after we address the issue of the ordinance. Any comments on that from any Commissioners?

Vice-Chair Monk: I just had one question referring to the report. In the report, you're giving page numbers. Are those correlating with the Packet Page because (interrupted)

Mr. Lait: Packet Page number.

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1 Vice-Chair Monk: So that... ok. So, all of those proposed amendments are actually within the
2 ordinance already that we're going to be talking about? Ok and then the other items that you
3 put to us, for example how to address some of the policy concerns, Eichler issues, those other
4 things that are in the report. Would we talk about that separately?

5

6 Chair Lauing: That's what I'm suggesting we do at the end after we discuss it... the items.

7

8 Vice-Chair Monk: Right I just want to clarify with Staff that that's a distinct conversation
9 compared to the ones that are in the ordinance.

10

11 Mr. Lait: So, the Eichlers are included.

12

13 Vice-Chair Monk: Within here?

14

15 Mr. Lait: Yeah well (interrupted)

16

17 Vice-Chair Monk: Ok I didn't (interrupted)

18

19 Mr. Lait: In the PowerPoint and then also in the ordinance.

20

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1 Vice-Chair Monk: Ok thank you.

2

3 Chair Lauing: So, to launch that just light up a light and you can go through and make comments
4 or questions and then we'll just take it from there. Ok is there a motion then because there are
5 no comments. I'm teasing, I'm teasing. I'm teasing, go ahead Commissioner Alcheck, I mean
6 sorry Waldfogel.

7

8 Commissioner Waldfogel: Let's see. I have a fairly somewhat technical question. I'm trying to
9 sort out the basement rules and how these work with light well and what's the term of
10 [unintelligible] in the code? Lightwell stairwell below grade patio and those rules as far as
11 setbacks are concerned. So, does the 1812090 basement code, is that the relevant basement
12 code if somebody wants to build a basement in an ADU? I mean it doesn't... It's not clear to me
13 that that's the right piece of code.

14

15 Mr. Lait: Right so what we're... it's not. What we're saying is in the ordinance we're
16 acknowledging... let me go back one step. So, I think the Council is clear in wanting to have... to
17 permit ADUs... So, the Council was clear in stating that they wanted to allow ADUs in the rear
18 yard and I believe it was also clear in their conversation that basements, as a part of ADUs,
19 were ok. The ordinance that got drafted I think was a little bit unclear about that specificity and

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1 so what we're proposing to do is make that clear that basements are in fact allowed under
2 ADUs provided they stay under the footprint of the building.

3

4 Commissioner Waldfogel: Right I understand that part but if that basement is used for any... if
5 that's a living quarter of any sort then it needs egress?

6

7 Mr. Lait: Yeah.

8

9 Commissioner Waldfogel: So, I'm just trying to figure out is what rules would apply then to light
10 wells and egress? I mean for example the 1812090 says that you can't put that in the front of a
11 building but in the case of an ADU it probably makes more sense for it to be in front than in a
12 rear yard setback. So again, I think there's a potential here for confusion and I just want to
13 point this out that we may need to straighten this out.

14

15 Mr. Lait: Yeah and I think our interest would be... and I'm trying to look at the code now to see
16 if there are any setback limitations for light wells from property lines. I think we'd want to
17 respect that to some degree.

18

19 Commissioner Waldfogel: Well I just think we want to be clear because I mean the 6-foot
20 setback is pretty clear above grade but now if you can go 4-feet into a rear yard setback for a

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1 light well. Now the edge of the light well is 2-feet or 2-feet minus the thickness of the light well
2 potentially from the lot lines. I just think we need to be clear on what our intent is.

3

4 Mr. Lait: Ok well (interrupted)

5

6 Commissioner Waldfogel: I see possibility for confusion.

7

8 Mr. Lait: Right and so I would ask the Commission to have that conversation so that we can
9 address that appropriately in the ordinance.

10

11 Commissioner Waldfogel: [off mic] I'm not sure we can do that in the time, it's complicated.

12

13 Mr. Lait: [unintelligible] just to follow along with that. I don't know that we need to solve the
14 particulars about the language about what it would be but if the Commission were of a
15 perspective that hey you know light wells within the 6... between the ADU structure and the
16 property line where there's a 6-foot setback maybe that's to close. We can establish any light
17 well shall be... shall maintain a minimum of x-feet away from a property line and then we can
18 work with how we incorporate that if (interrupted)

19

20 Commissioner Waldfogel: [unintelligible -off mic]

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Mr. Lait: That's true we can have that kind of (interrupted)

Commissioner Waldfogel: [unintelligible – off mic]

Chair Lauing: Did you have other comments at this point?

Commissioner Waldfogel: What's that?

Chair Lauing: Did you have other comments at this point?

Commissioner Waldfogel: No, I mean (interrupted)

Chair Lauing: Ok Commissioner Summa.

Commissioner Alcheck: Can I ask... Can I just ask Commissioner Waldfogel a question about the comment he made?

Chair Lauing: About what?

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1 Commissioner Alcheck: I just want to ask Commissioner Waldfogel a quick question.

2

3 Chair Lauing: Yeah as long as we don't get into a dialog.

4 Commissioner Alcheck: Yeah no, there's one section where they talk about no windows,
5 exhaust systems, doors located within 6-feet. I don't know if you noticed that (interrupted)

6

7 Commissioner Waldfogel: Yeah, I did notice that.

8

9 Commissioner Alcheck: Would that be an appropriate place to include the word light wells?

10

11 Commissioner Waldfogel: Well again there's some (interrupted)

12

13 Commissioner Alcheck: That would essentially prohibit them from being property side of the
14 unit if it was within 6 (interrupted)

15

16 Commissioner Waldfogel: Yeah but even there I mean there's a little bit of ambiguity in that
17 language because let's say you have a wall at 6-feet. And now if you put say the vent outside of
18 that wall, is that vent less than 6-feet? I mean would be count that vent as being at 6-feet? I
19 mean suppose you put a whole fan assembly on the outside wall (interrupted)

20

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1 Commissioner Alcheck: You mean flush?

2

3 Commissioner Waldfogel: Yeah, then is that within or without the 6-foot.

4

5 Commissioner Alcheck: I guess my question is let's assume for a minute that that section said
6 that wall couldn't have it if it was on the 6-foot line, let's just assume. Would that be an
7 appropriate place to add the light wells in your mind because I'm trying... I would... In my mind,
8 I like the idea of grouping it and saying these are all things that we don't want to see sort of
9 converging on the setback. And I just wanted to know (interrupted)

10

11 Commissioner Waldfogel: That's probably an appropriate place.

12

13 Chair Lauing: Commissioner Summa.

14

15 Commissioner Summa: Just first off, a couple of question for Staff. One is on Packet Page 25 at
16 the top D, I was wondering if you meant to have the word existing development define that
17 sentence because it seems like the sentence is referring to both existing and new construction.
18 So, I thought maybe that was just a mistake or (interrupted)

19

20 Mr. Lait: So, are you referring to Letter D?

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Commissioner Summa: Yes.

Mr. Lait: You know so this is existing language, to use the word existing again. You know if there's a better way to characterize that we can certainly make changes to that. It's just sort of a pre-heading to the sentence that follows.

Commissioner Summa: Ok I just thought it was a little confusing and then I wanted to ask do we require an all new residential development sprinkler now?

Mr. Lait: Yeah, I think we do for new single-family home construction. I don't know if that applies to ADUs but there might be people in the audience who or even Commissioners who have some experience with that.

Commissioner Summa: Yeah, ok thanks. That's what I thought. (crosstalk -off mic)

Mr. Lait: Is there... If I can just ask on that. Is there something about the ADU regulations and sprinklers that is something that we should be aware of?

-
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1 Commissioner Summa: Well we weren't... you weren't going to require them for ADUs if they
2 weren't in the main house which I guess means the main house was built before sprinklers
3 were required and I'm not sure why we'd want to do that.

4

5 Mr. Lait: Ok I can answer that question so that's straight from state law.

6

7 Commissioner Summa: Oh, state law requires that you don't require it.

8

9 Mr. Lait: That's right.

10

11 Commissioner Summa: Ok thanks.

12

13 Chair Lauing: Yeah, I'd be great if we could do comments and questions all in the first round and
14 then go back if we want to make adjustments to the ordinance.

15

16 Commissioner Summa: [off mic] Do you want to go through it item by item or everybody
17 comments on one item?

18

19 Commissioner Gardias: [unintelligible – off mic]

20

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1 Chair Lauing: Well yeah, we will go through the proposed amendments for sure but if you
2 wanted to make other comments about it go ahead.

3

4 Commissioner Summa: Well I think I can make my comments as we go through each one
5 (interrupted)

6

7 Chair Lauing: Ok, that's fine.

8

9 Commissioner Summa: If you want.

10

11 Chair Lauing: That's fine. Commissioner Alcheck.

12

13 Commissioner Alcheck: You know I think that one of the challenges with this process is that
14 there's a lot of... It's very difficult to sort of foresee certain scenarios play out. I want to sort of
15 give you an example. I'm not suggesting I know exactly how I feel about this but I think it's
16 worth discussion tonight and maybe further review. So right now, we don't... With the
17 exception of detached parking which as written can be closer than any other structure on your
18 property to your rear fence. We don't typically allow habitable spaces to be within 20-feet of a
19 rear yard but we have established a pattern and correct me if I am wrong Jonathan, like we do

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1 allow people to develop detached parking facilities in the rear that can be much closer than
2 that 20-foot setback. Is that right?

3

4 Mr. Lait: In the rear yard? Yeah.

5

6 Commissioner Alcheck: The one thing though about those detached units is that they are all
7 one-story these detached parking structures. So, I think one thing I think we should think about
8 here which is what does a two-story structure that begins 6-feet from a rear property line look
9 like when that wasn't something that we sort of entertained in the past. One of my concerns
10 here is... And I'm not... I don't object to the idea of two-story ADUs. The question is what is the
11 relationship to our sort of Day Light Plane Requirement? The idea of I think after... from the
12 fence, you're allowed to be 8-feet tall. And then every foot away from the fence essentially the
13 closest you could build an ADU your height could be 14-feet in our... at the 6-foot line, the
14 height of your structure could begin to rise from 14-feet. Right? Am I reading that right?

15

16 Mr. Lait: Yeah but can I offer... [unintelligible]

17

18 Commissioner Alcheck: I'll tell you where I'm going with this. The issue I'm trying to raise is that
19 14-feet is twice the size of our fence height requirement and 14-feet, 6-feet away from a fence
20 is going to be noticeable. And one of the questions is do we need... And then keep in mind 7-

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1 feet it's going to be 15-feet and it can keep rising essentially. And what is the two-story height
2 limit for the ADU?

3

4 Mr. Lait: So, there are only two zones in the City where two-stories is allowed and that's in the
5 OS and the RE districts. And that was existing code even before the state law changes.
6 Everywhere else it's one-story, 17-feet.

7

8 Commissioner Alcheck: I guess my question to you is let me put it to you this way. Do you... are
9 you... this didn't occur to me the first time we read it but the second time we read it when we
10 read it in conjunctions with this new concept of these Eichlers and this limited height. Which I
11 don't know if that necessarily is appropriate because I imagine that as we begin to see new
12 developments under the Eichler guidelines they may resemble sort of the style of Eichlers but
13 they will be more similar to the new heights that we're seeing in homes now which are typically
14 10-foot tall sidewalls as opposed to 8 [note-feet] which is what we see in the community. So, I
15 think it's appropriate for someone to build an ADU now that may differ from the standards. The
16 question is in Eichler community we're quite sensitive to heights. And in the general area lets
17 for a minute ignore the second-story option. A 17-foot tall structure could exist if I'm correct 9-
18 feet away from a fence.

19

20 Mr. Lait: Well there's the Day Light Plane.

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Commissioner Alcheck: You're at 14-feet at 6-feet away from the fence, for every additional foot you go up and you'd be at 17-feet at 9-feet away from a fence line. So, we don't... right now 9-feet away you can be 17-feet tall. That's dramatically different than what we have and if you're a corner lot that is a side yard. That's not such a big deal because our current rules allow homes to be that close to your side yard but if you're not a corner lot then this is a new situation. And one of the questions that I wanted to post is whether or not the Day Light Plane should be maybe a little bit more sensitive to the notion that it should taper because of the proximity. I don't know, that's something to think about and I only raise that because it occurred to me while we were reading the Eichler ones that if you're... if you live in an Eichler community and everybody's got a single-story home. And suddenly there's a 17-foot tall structure 9-feet away from your fence line, that would seem odd and so in the Eichler community, we've limited it. But there are a lot of community... a lot of homes in our neighborhoods that are not two-stories tall and this might... my biggest fear is that in the lofty goal of sort of pursuing additional housing opportunity here we create something that a lot of people really dislike. And that... I think we can accomplish both things. I think we can create rules. I don't really foresee a lot of 17-foot tall buildings but it only takes one for somebody to feel like their lives have been ruined.

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1 Another comment I want to make has to do with that notion that I think we brought up last
2 time we talked which was we have... I think as written your ordinance allows people to convert
3 their existing covered parking... detached covered parking into an ADU and provide
4 replacement parking that is not covered. And I notice that we've done a good job of sort of
5 addressing that. One of my questions that I proposed last time is there any reason why we are
6 not speaking to the likely event of someone building a new home and a new ADU at the same
7 time? And if we don't address that scenario that individual will likely be incentivized to build a
8 detached garage and then post construction file a new permit to convert their attached garage
9 into an ADU. Which will have given them an opportunity to maximize floor area for habitable
10 space as opposed to what I think the current code and the current ordinance reads that if you
11 were going to do this now, you would be able to escape the requirement of covered parking.
12 And so, one of the questions that we had last time we met was do we want to create a system
13 that incentives people for a longer process because the results are potentially in their mind
14 perceived higher value because they have more living space? This is not about the bonus. This is
15 about the idea that... I got... does this make sense to you?

16

17 Mr. Lait: Yeah, I think you're talking about converting a garage into an ADU?

18

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1 Commissioner Alcheck: I'm saying if an existing... I'm saying take an applicant today brings
2 forward a new single... a new home and they design a detached parking facility in the rear and
3 let's say its 600-square feet.

4
5 Mr. Lait: So, our provision says that the structure needs to be existing as of January 1, 2017. So,
6 if you build that new home today we would not allow that to be converted.

7
8 Commissioner Alcheck: We wouldn't allow you to not... Ok so if you build a home today with a
9 detached garage which is required. You wouldn't be able to convert that detached garage...
10 actually, it's not today, it's any time in the last year. You wouldn't be able to convert that
11 attached garage into an ADU?

12
13 Mr. Lait: Yeah, that's right. If it's... if the garage is... well let me qualify that by saying I'm
14 assuming your garage is located in the corner of a property, in the setbacks and all that kind of
15 stuff but if it's a conversion (interrupted)

16
17 Commissioner Alcheck: I'm saying if the garage is compliant with the code as written today. Like
18 the code right now allows you build a detached garage, right?

19

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1 Mr. Lait: Yeah but there are many places where that could be placed on the lot. Let me just
2 simplify the response and say you can convert a garage if it was constructed... If you have an
3 existing garage and it was in place as of January 1 and the replacement parking would be
4 through the means provided in the code. You wouldn't have to provide covered parking again.

5

6 Commissioner Alcheck: Ok so if I'm clear here anybody doing new construction would have to
7 build both covered parking and a separate ADU if they wished to have an ADU. They couldn't...
8 there is no process both bifurcated or not bifurcated by which somebody could build a home
9 today and then decide in five years that they'd like to have an ADU but they wouldn't be able to
10 do it because I assume they've maximized their floor area. So, they have not extra floor area to
11 build that ADU and you wouldn't allow them to convert their existing or their then existing
12 garage into an ADU. Is that what I'm to understand? Future detached garages are not eligible?

13

14 Mr. Lait: I believe that's correct but let us have a conversation.

15

16 Commissioner Alcheck: That's fine. Let me just pose this other point to you. Do you think... Let's
17 assume for a minute that I'm right because I think we can answer this in time. Let's assume for
18 a minute that I'm right that if I built a new home today and in three years I decided to do an
19 ADU. I've maxed out my floor area, my garage is in the rear, I wouldn't be able to convert my
20 garage. If that's the case do you believe that would incentive people to today develop ADUs in

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1 their rear and then come forward with a new construction for the single-family home? So, for
2 example, I'm on a lot, the homes built in the 50's, I've got a detached garage, I apply today to
3 convert that detached garage which has been in existence prior to 2017 into an ADU, and I
4 expand it a little bit. I then come with a permit to build a new home, I'm going to demolish that
5 home and build a new home, would that home be required to have parking and if that home
6 was required to have parking in the rear, do you have an idea of how you would address that?
7 You had previously allowed someone to convert their covered parking spaces. Will they get to
8 continue to receive that benefit of not providing covered parking spaces in lieu of habitable
9 space? I'm trying to suggest to you that I would prefer that we have some rationale for how we
10 approach the notion that we going to allow people to essentially remove covered parking in an
11 effort to create additional housing. Now the question is if you didn't think you wanted an ADU
12 today but in three years from now where I imagine the housing crisis has not been solved. You
13 decide that you do want an ADU, do we really want those people not be able to convert their
14 rear garage into an ADU? I don't know if that's the case and that's question one.

15

16 Question two is there any reason why we wouldn't want to encourage people who are
17 considering building their home today to not... Is there a reason why we would want to require
18 them to provide covered parking but their neighbor who has an existing home prior to 2017
19 not? That rationale to me is important. I don't mind either way. If the City decides that we
20 don't... we're not going to require covered parking if it means we're going to get another

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1 dwelling unit. That seems like a very prudent policy decision. If that's the case then why
2 wouldn't we sort of decide to do that across the board? That's a question I have.

3

4 Mr. Lait: Ok so I'll do my best to respond to. I may mess up here.

5

6 Commissioner Alcheck: It's complicated.

7

8 Mr. Lait: It is. The... I need to chat with Albert a little bit more on some of these but in the
9 scenario that you described with the 50's home that had the garage converted to the ADU and
10 then the new home was... the home was demolished and a new home built. I would say in that
11 scenario our Staff would probably require a covered garage for that new home because that's a
12 new home under today's codes. You've got the ADU, that's great, it can stay in its location
13 which it probably wouldn't have been allowed too if it was in this detached garage but that's
14 existing. That can stay. The new home would have to comply with the covered parking
15 requirements. There is definitely policy conversation that the Commission had at the last
16 meeting about this very issue of how do we create... If there a parity issue between people
17 who are able to convert and those that are not able to convert under the way the code is today.
18 And so just a couple of thoughts. Not necessarily an answer on that but state law has stipulated
19 that garage conversions are allowed. You can just do those and so that in and of itself sort of
20 sets up this duality of among property owners. If you have this garage and you want to make it

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1 into an ADU you can convert this garage. I think it's designed to create this incentive but I don't
2 know and this is to the policy call for the Commission and Council. I don't think we're at a point
3 where we're saying for all new residential development we don't want to have any covered
4 parking because that's essentially what we're... Where that goes if you continue that
5 conversation. If we want to have a parody that somebody can convert their ADUs and we can
6 create this two-tier system where somebody can build their home and then a few years later
7 convert that into another ADU. I mean we're basically saying there are no covered parking
8 requirements in the City

9 (interrupted)

10

11 Commissioner Alcheck: I think the notion (interrupted)

12

13 Mr. Lait: Which (interrupted)

14

15 Commissioner Alcheck: I think what you're suggesting would immediately address this issue.
16 So, if any home is built after 2017 couldn't convert a detached garage... a rear detached garage
17 into an ADU. You would essentially eliminate an incentive to maximize habitable floor area
18 while avoiding covered parking requirements. And I think what you're saying is we don't really
19 want to eliminate our covered parking requirements because if you take that down the road
20 then we are essentially over... we're maybe overburdening our streets. I don't know.

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2 Mr. Lait: I think what we're trying to do is create a scenario where our ADU regulations have
3 been relaxed significantly and if you're building a new home today the hope is that you're
4 giving some thought to where that fits in on your property. But not everybody can anticipate all
5 the events that may happen in life and they may find later on that they do need an ADU for
6 whatever reason. They are not precluded from putting an ADU on their property. It just may
7 not be the converted garage. It may have to be an attached ADU or converted space in their
8 dwelling and you can still do a detached ADU new construction in their backyard so I mean
9 there are options. It's not a (interrupted)

10

11 Commissioner Alcheck: So, let me so all of this rationale makes sense to me. One of the
12 questions arose from your initial comment just now was you have language in this ordinance
13 that suggests that adding an ADU would be exempted from the rear lot coverage requirements.
14 So, in essence, if you wanted to add this ADU but suddenly you were covering more lot than we
15 typically allow we're waiving that requirement. In a scenario where someone builds an ADU
16 today in the rear and then decided to come forward with a single-family... that the main
17 residence project and presumably their subject to developing a garage or covered car parking in
18 the rear. Do we want to make... do we want to anticipate that and add language that says that
19 covered parking will be exempted because I presume that once you've converted the ADU you
20 will be covering a certain amount of floor... lot coverage area? And so now you've come, you

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1 want to redevelop your 50's main residence five years later, we are going to actually require
2 you to put back the parking that you removed but that structure is presumably not exempted
3 from the rear lot coverage calculations. So, does that mean that the Staff will treat the
4 calculation as ignoring the ADU in your mind? To figure out how large a covered parking
5 building you can build. Does that make sense? You've got one ADU in the rear that's existing
6 and now you need to place parking in the rear.

7

8 Mr. Lait: So, I want to make sure we're talking about the same thing. The provision in the
9 ordinance that exempts the ADUs from the lot coverage requirement is dealing specifically with
10 the rear yard setback. So, for the portion of the rear yard, we have this code requirement that
11 says assessor structures, garages, tool sheds, things of that nature can't occupy more than 50
12 percent of that rear yard so what we're saying is ADUs are exempted from that requirement.

13

14 Commissioner Summa: Right.

15

16 Mr. Lait: So, in the scenario that you described where there's this converted garage into an
17 ADU and then all the other improvements are removed [and] a new house is constructed. You
18 can still put a garage in the rear yard (interrupted)

19

20 Commissioner Alcheck: Because you would still treat that as exempted.

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2 Mr. Lait: We would treat the ADU as exempted (interrupted)

3

4 Commissioner Alcheck: ADU is exempted.

5

6 Mr. Lait: But not the garage.

7

8 Commissioner Alcheck: It wouldn't penalize them.

9

10 Mr. Lait: That's right.

11

12 Commissioner Alcheck: Ok and then one other question before we start getting into comments.

13 It's been sort of top of mine this concept of the Contextual Garage Placement provision. Is in

14 your mind there a process for let's say those homeowners who are forward thinking and decide

15 to build let's say a detached ADUs in the rear. That's a logical... excuse me that's a logical place

16 to put them. Is there this notion that possibly the... if we incentive this sort of rear placement of

17 an ADU and potentially covered parking that we could begin to see a change in the contextual

18 calculation of a street? So, let's say for example you've got a street that's sort of equally front

19 to rear and a homeowner comes forward with a plan to execute sort of a rear detached ADU.

20 One of the I think brilliant suggestion in the ordinance is this idea that you could have an ADU in

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1 the rear that the habitable space wouldn't include the... the maximum size of your detached
2 ADU could be 900-square feet and that habitable space doesn't include whatever portion of
3 covered parking that you include. So logically if you're going to place a rear detached structure
4 and presumably you don't want multiple. You would sort of bifurcate the use. You'd place one
5 covered parking spot right in conjunction with your detached habitable space. If that changes
6 the calc. [note-calculation]? No, I am serious because we had... this conversation came up last
7 week at the Commission level and the notion was that somehow these movements are... sort of
8 the changes should be remedied. And the question is well in that situation a street could
9 theoretically change in a new direction. Do you think that it's worth addressing that? And I say
10 that because immediately let's say it was 50/50, the immediate change by one homeowner
11 could preclude any of the remaining homeowners from reconstructing their homes as they are.
12 And as I was listening to that conversation last week I realized wow, that would be a dramatic
13 change. You've had a front garage your entire life and now one new rear detached ADU
14 combined parking structure has changed the context of your street that now requires that all
15 covered parking spaces on your home be rear. So, you're technically no longer what do you call
16 code compliant with the new rules. Your grandfathers in but the second you do a significant
17 remodel you might have to comply. Does that make sense?

18

19 Mr. Lait: I get the gist. I mean you convert the rear garage into an ADU and how does that affect
20 the garage context.

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2 Commissioner Alcheck: No, no, this would be new construction. This would be an individual
3 who might have a front garage today. They build a new rear detached ADU which has a
4 combination of a covered parking space. That covered parking space doesn't count to the total
5 of your ADU habitable space and they've not changed the calc. [note-calculation] on the street
6 because they removed a front garage and created a rear covered parking space. I only say this
7 because I want to put it in your mind that there might be a reason that Council is interested in
8 preserving... remember they had talked to you about this idea of going back in time. So, do we
9 want to measure those changes?

10

11 Mr. Lait: Again, I think I'm understanding but I don't know that that has... Well (interrupted)

12

13 Commissioner Alcheck: The suggestion is that recently that change might have affected people
14 rights so I'm asking if only if we anticipate that that would happen in a different way, do we
15 want to address it? And I'm suggesting to you a very real possibility and so the question is do
16 we want to address it?

17

18 Mr. Lait: Ok and I would ask that's a question that I would like you to pose to your
19 Commissioners and you can debate about how you want to approach that. I do think that
20 you've raised a point that I'll be thinking about which is how do conversions of garages affect

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1 the context-based criteria for siting new garages either in the front or the rear of a property.
2 And that may not be your specific point but that certainly triggered that issue in my mind.

3
4 Commissioner Alcheck: Well I can put your mind at ease. The current Contextual Garage
5 Placement says that if no garage is present then the calc. [note-calculation] remains a rear
6 garage. So, converting an existing rear garage wouldn't change the calc. [note – calculation].

7
8 Mr. Lait: Well I'm not so sure about that but I'll take a look at it.

9
10 Commissioner Alcheck: That's ok. You can look into it but the scenario I'm worried about is
11 slightly different. Ok I'll take a break now from the questions and I'll let other Commissioners
12 ask a question and then we can comment on the various items.

13
14 Chair Lauing: I think Commissioner Gardias was next.

15
16 Commissioner Gardias: Well actually I would like to just understand what's the protocol for this
17 discussion? I believe that there was a plan of discussion proposed that we are going to go
18 through those amendments and then we're going to just discuss some other items and I have
19 lots of them as well. And with the respect to the proposed plan of discussion, I would like to
20 stick to it. Thank you.

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Chair Lauing: Ok. Commissioner [Note - Vice-Chair] Monk.

Vice-Chair Monk: I'd like to echo the sentiments from John Kelly. You could have read off my notes directly but I wanted to really commend the Staff report. I felt it was very thoughtful, it was thorough, it clearly laid out what had been changed, what issues were not going to be discussed tonight or what things were not included. I felt that this report offered greater insights than what we had seen in the prior reports about our options and how to address the various concerns and issues that the implementation has given risen too. I also appreciated the fact that there were policy concerns that were clearly identified and needing our considerations so thank you for that. The very end you mentioned next steps and I think that can expedite our review tonight. You very [unintelligible] said that we'll just when there's a departure from the Staff recommendation that will be pushed on. So, I just want to acknowledge all of that and kind of also agree with Commissioner Gardias too to go through what was laid out. In your... Assistant Director your report that you gave to us today it's a perfect framework for our discussion tonight. And I think aside from other a couple high-level questions that people might have going through the framework that you laid out the nine amendments and then the follow-up discussion afterward I think should cover all of the various issues that everyone is concerned about. And so, for me just the high-level question that I have and maybe it would come up, later on, would be what would be the process for amending fees?

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2 Mr. Lait: So that's not set forth in the Zoning Ordinance. That would be... if the Commission got
3 to a point where they thought this was an important consideration to make it would just be
4 part of your recommendation to Council that asking Council to consider changes to the
5 Development Impact Fees associated with ADUs. And so that would just be part of a motion
6 that could be made.

7

8 Vice-Chair Monk: Then would you anticipate when we get to that section we would just make a
9 motion at that point? Ok.

10

11 Mr. Lait: Yeah, I mean so we're just looking for... There's I guess a couple of... We're suggesting
12 that the fees be reduced in the context of when tied to this deed-restricted affordable housing
13 unit. You know the Commission, I would like to hear what the Commission's perspective is on
14 that or another perspective that we hear is we should just be reducing the fees outright for the
15 Development Impact Fees for ADUs but I don't know. We have to have a conversation about
16 how to incentive ADUs for lower-income individuals as directed by Council.

17

18 Vice-Chair Monk: I'm sure the Commission would have some great insights on that so just so I
19 understand we're going to do the nine and that would follow the nine amendments proposed
20 and we'll move into that which is Page 7 of the report you gave us.

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Might not be relevant but I was just kind of curious of the applications that were received. Does that always convert into an actual construction or are there times where you get an application and it doesn't move forward to construction?

Mr. Lait: It's... if they don't comply with code they either make the changes or they abandon the project. More often than not we're seeing projects revisions so that we're getting to be able to issue a permit.

Vice-Chair Monk: Ok I'm just trying to find out of the thirty-one applications received, I know you gave a link to see where we are on the statuses so I'm just trying to understand. Should we assume that roughly the full amount would get... move forward assuming they are code complaint?

Mr. Lait: You know I have not reviewed the applications on file with the City personally. It's like any other application. People file them with the intent to build it and we're checking it to code. There might be some revisions. I don't have any... I mean unless somebody is proposing something that is just completely inconsistent with our regulations we would not be able to approve it. And I can't speak to whether (interrupted)

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1 Vice-Chair Monk: Yeah, I'm just asking a high-level question. If that's a number that reflects the
2 actual number of units that are going up?

3

4 Mr. Lait: So, no, it may not. I mean somebody could elect not to build. They may be their
5 approvals and elect not to build for whatever reason. So, I think it's a strong indication of where
6 things are heading but I wouldn't say it's a one for one accounting.

7

8 Vice-Chair Monk: And do you think that the number of applications would have differed if we
9 had kept this more consistent with what's required since state law and not what our local
10 additions in a way modified [unintelligible] what was required in state law?

11

12 Mr. Lait: Yeah, I know we have done that analysis. I would say that our regulations are to... we
13 reported previously that the two major areas that were somewhat barriers for the productions
14 for ADUs had to do with the parking and the lot size restriction. Both of which state law in many
15 instances allows for municipalities to still require a parking space for ADUs. Under certain
16 circumstances it's not allowed but and then lot size was a restriction of state law. That's
17 something that we've decided to relax over time so I think that those have helped with the
18 production of ADUs for sure.

19

20 Vice-Chair Monk: Thank you.

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MOTION

Chair Lauing: Ok great. Thanks very much, Commissioner [Note – Vice-Chair] Monk. I just had a few questions. I also thought it was just a superior Staff report. Very detailed but very concise. It sticks to the point. Just excellent. Very encouraging that we've got, if they are all built, ten percent of next year's Council approved housing quota. So, we're moving, we're moving on this which is excellent. As I said earlier I think the intent here is not to delve into sub-native policy changes. Council isn't asking for that and it's only been out there for a few months so I don't think in our debate here we should be talking about stuff that needs or might need to happen in five-years. But we are constantly going to get this back to us at Staff discretion to keep looking at the data which is terrific.

So, I think with that what I'd like to do is structure the next part of this discussion by just moving the acceptance of the Staff report as presented on ADUs and look for a second for that and then we can have individual comments and/or amendments.

SECOND

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1 Vice-Chair Monk: I'll second it.

2

3 Chair Lauing: I think... ok. Moved and seconded. Everybody understands the motion? The
4 motion is to accept the Staff report as given and we'll have discussion about that. I think
5 Commissioner Alcheck was the first light on. Was there a question?

6

7 Commissioner Alcheck: I'll make some immediate amendments because I think (interrupted)

8

9 Chair Lauing: Well excuse me. I'm sorry was there a question down here that was (interrupted)

10

11 Commissioner Gardias: I don't understand the motion that's... What's the objective?

12

13 Chair Lauing: The motion is so we can start discussion about the motion. I'm putting on the
14 table that we approve the submitted report from Staff the ordinance itself. And I'm expecting
15 there will be discussion on that and potential amendments to that but the baseline motion is to
16 approve the Staff report and then we can go through these six amendments here.

17

18 Commissioner Gardias: Ok thank you.

19

20 Chair Lauing: So, do we want to go through these on a... Let's look at these items (interrupted)

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Commissioner Alcheck: Sorry do I not have the floor?

Chair Lauing: No but I was going to say let's look at these items in order so let's talk about first the zone districts so your comments on that, yes.

Commissioner Alcheck: Yeah maybe it would it... I guess my question is I certainly would prefer a process where we could suggest additional amendments so that other Members of the Commission are aware of what other Members of the Commission would like to discuss. Because if we go through this and then each one of us has to raise our... Maybe if we had... Maybe I have some similar amendments that Commissioner Summa has for example. If we get those on the board or something that way we're not talking about just three or six amendments. We could be talking about all twelve and get a big picture of how... I'm very eager to move this item but I think there are some big questions here, particularly I'll give you a perfect example. We talked about this last time this notion that proposed accessory dwelling unit and the principal residents have a requirement that one of the two has to be occupied by the owner. That would be an (interrupted)

Chair Lauing: Right.

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1 Commissioner Alcheck: Example of an amendment I would suggest so maybe it would be
2 possible to just get those out (interrupted)(crosstalk)

3
4 Chair Lauing: But what I was expecting is that we would... And I think that's what we agreed up
5 front is we would talk about these six that were proposed and included in there to make
6 (interrupted)

7
8 Commissioner Alcheck: And you want us to go one by one?

9
10 Chair Lauing: Yeah so, we would make any comments on one or two or three but that does not
11 preclude any additional amendments certainly. So that one, for example, could be and probably
12 will be suggested after we get done with these discussions.

13
14 Commissioner Alcheck: Ok.

15
16 Chair Lauing: So, if you have comments on the item on Page 20 clarifying ADUs maybe establish
17 an owned zone districts then you should proceed.

18
19 Commissioner Alcheck: Ok so I'll... I mean I think I'll respond to this statement only because
20 somebody raised it today. I certainly want to support the notion of a developing ADU Units. I

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1 actually I think thirty-eight units it's just an inkling of what we're going to see and I'm excited
2 about the prospect of ADUs being a very viable and vibrant part of the development of new
3 dwelling units. The question about clarify that ADUs may be established in all zones that permit
4 single-family use. I would support... I'm not really sure... I guess a suggestion is that right now
5 the ordinance as written would permit ADUs in districts that don't permit single-family use.
6 Which I think you were suggesting that you would like to see language that made that happen
7 and this amendment suggests that as it's written what you want is already in place. This
8 amendment suggests that we need to clarify that ADUs are only permitted in districts that
9 permit single-family use which suggests that they are currently permitted in districts that don't
10 permit single-family use. So, I'd like to understand essentially the need for that? Is it Staff's
11 suggestion that there currently are districts that don't permit a single-family use that ADUs are
12 permitted in? And then my follow up question... And then my follow up statement will be to
13 that question.

14

15 Mr. Lait: So, no I think we're just trying to make it clear by specifically calling out the districts
16 and saying... because before we just said... we said it generally but then somebody had to go
17 into the code and find out ok what are the districts? Is it... And now we're saying no, it's R-1, R2,
18 OS, RMD, RE. We're just making it clear and we're spelling out all the different codes where the
19 districts where it applies.

20

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1 Commissioner Alcheck: So presumably the district that you have in mind doesn't currently
2 permit single-family use so I just want to highlight the fact that this request essentially is in
3 contradiction with the first amendment on the board. And so, I'll speak to why I think the first
4 amendment on the board is prudent. I don't know that we should be encouraging the
5 development of ADUs in places where we wouldn't encourage the redevelopment of single-
6 family homes. So, if I'm right... If I'm understanding this correctly if the zone that he's... that this
7 individual has in his mind is a zone where you can't actually currently have a single-family
8 home. A parcel owner in that zone wouldn't be able to come forward with a new single-family
9 resident project application. They would be able to replace an existing I would say I guess non-
10 conforming residence with another new non-conforming residence. Is that right?

11

12 Mr. Lait: Yeah, I'd want to just double check with the non-conforming provisions of our code
13 under the circumstances which this structure was demolished or removed but yeah, that's
14 generally the understanding.

15

16 Commissioner Alcheck: So, I would... I appreciate you showing up tonight and making that
17 comment. I would suggest that I think if we aren't encouraging, for example, single-family
18 homes on a commercially zoned parcel but there happens to be an existing single-family home
19 there which we wouldn't allow a parcel owner to demolish and rebuilt a new one. They'd be
20 required to let's say build retail or commercial. I don't know that we want to encourage or

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1 allow the development of ADU because presumably what we encourage or allow to be
2 developed today will last many many years. And so I wanted to sort of address you and
3 addressing this amendment that I think we should clarify that the ADUs be established in all
4 zone districts that permit single-family use and if a district doesn't permit single-family use but
5 has a residences on it, I think we should be clear that we don't want to encourage a new
6 residential dwelling unit on such a non-residential zone parcel. Sorry if that's confusing but I
7 wanted to sort of make sure that you understood why I was saying that.

8

9 Chair Lauing: Commissioner Gardias, Item One.

10

11 Commissioner Gardias: Thank you. Yes, I'd like to have a clarification about the ADUs or other...
12 many ADUs because that's where we are. Within R2 and RMD districts, both of those districts
13 they require I believe owner occupancy. So, it's like in any other residential district that within
14 those R2 and RMDs the original owner or owner of the property needs to occupy this one of the
15 dwelling units on the property.

16

17 Mr. Lait: I don't know that that's correct.

18

19 Commissioner Gardias: So, the reason I'm asking this question is because that we threw out for
20 the remaining for R-1 we require that this owner-occupied property, right? But here for those

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1 two zones for two family residential district, I believe that the ownership is required but it's
2 hazy to me if our intention of having owner occupancy of one of the dwellings would extend to
3 those two zones, to R2 and RMD zones.

4

5 Mr. Lait: So yeah if there... if you have a single-family home in an RM or an R2 zone and you
6 want to add an ADU the ownership provision would exist.

7

8 Commissioner Gardias: Ownership, yes. What about occupancy? Would the owner be
9 (interrupted)

10

11 Mr. Lait: Yes.

12

13 Commissioner Gardias: required to occupy one of those dwelling units?

14

15 Mr. Lait: Or lease them both out to another individual.

16

17 Commissioner Gardias: Or lease them to another individual.

18

19 Mr. Lait: Both units.

20

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1 Commissioner Gardias: Both units and then because RMD you may have several units, I believe
2 seventeen right so all of those units they would have to be leased out to another owner.

3

4 Mr. Lait: Well I think you're talking units and not ADUs. So, the code makes a distinction about
5 two-family units in these other zones.

6

7 Commissioner Gardias: Right I know. I'm just getting to the point would ADU also be allowed to
8 be leased out under this provision or would it have to be or it would need to be remained
9 owner occupied?

10

11 Mr. Lait: So, I guess let me answer the question this way. If you have... If a property owner
12 proposes to construct a lawful ADU on their property. There is an ownership requirement in the
13 applicable zones that they either need to occupy one of the units or lease both of these units to
14 another individual or entity if they are not going to occupy either of the units.

15

16 Commissioner Gardias: Could you repeat this, please?

17

18 Mr. Lait: Sure. If for any of the applicable zones that we have here on Page Packet Page 20 if a
19 homeowner met the requirements for construction an ADU on their property and they built
20 that ADU on their property. The owner would be required to occupy either the primary

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1 residence of the ADU and if the owner does not occupy either of them that own may lease both
2 units to a single individual but could not lease one unit to one person and another unit to
3 another person.

4

5 Commissioner Gardias: Ok but in terms of the R2 zone (interrupted)

6

7 Mr. Lait: If there are two R2 zones (interrupted)

8

9 Commissioner Gardias: So, there would be two units and there would be plus ADU so there
10 would be three units total right? Because R2 is for two units and then presumably the third one
11 which is ADU would be added.

12

13 Mr. Lait: So that would not be permitted under our regulations.

14

15 Commissioner Gardias: It would not be permissible to lease out all three units to one (interrupted)

16

17 Mr. Lait: Well you couldn't even get the third unit on there. Let me read you a provision about
18 ADUs in these zones here. Hold on a second. So, for the R2 and the RMD zone we have a
19 requirement that says accessory dwelling units or a junior accessory dwelling unit associated
20 with a single-family residence on a lot in the R2 or RM zones is permitted subject to the

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1 provisions of the chapter that we're looking at such that no more than two units would result
2 on the lot. So, if there is already two units on the lot we would not allow an ADU to be
3 established in one of those units thus resulting in three units.

4

5 Commissioner Gardias: Ok and what about RMD? If there [unintelligible] (interrupted)

6 Mr. Lait: Same provision.

7

8 Commissioner Gardias: RMD allows for seventeen units... for seventeen dwelling units. So, if
9 there are seventeen dwelling units (interrupted)

10

11 Mr. Lait: You're not putting (interrupted)

12

13 Commissioner Gardias: on the property then ADU would not be allowed.

14

15 Mr. Lait: So, in that... in a scenario where the RMD has multiple units you're not placing an ADU
16 on that property but in the RMD single-family homes are permitted. And if you have a single-
17 family home in an RMD you can then add an ADU.

18

19 Commissioner Gardias: Ok thanks.

20

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1 Chair Lauing: Commissioner Summa.

2

3 Commissioner Summa: I had a question on Packet Page 21 about Item C at the top of the page
4 and I just was curious why the setback of five feet in this situation?

5

6 Mr. Lait: Yeah so this is a state law I think.

7

8 Commissioner Summa: It is, ok.

9

10 Mr. Lait: Yeah that comes from state law.

11

12 Commissioner Summa: See at the top? Ok, thank you.

13

14 Chair Lauing: If no further comments on Item One let's go Item Two, clarify that setbacks from
15 detached ADUs apply to the basement level.

16

17 Commissioner Alcheck: I'm sorry do we have to make a friendly amendment and get it set or
18 I'm sorry. Are you going to accept the friendly amendment? I support this suggestion of
19 Number One and I made the point to it and I guess my question is are you treating that as a
20 friendly?

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Chair Lauing: I didn't know that you were actually suggesting an amendment. I thought you were just asking questions of the Assistant Director.

Commissioner Alcheck: No, I... See I'm very confused. I thought you wanted to go amendment by amendment. So instead of speaking to the amendments that I'd like to speak too, I'm going in your order and so I spoke to supporting the idea that we establish that all zone districts that permit single-family use be clarified that those are the zone districts that ADUs be permitted.

Chair Lauing: Right.

Commissioner Alcheck: I need to know if that's an acceptable as a friendly. If not then I think I need a second.

Chair Lauing: Right but what (interrupted)

Commissioner Alcheck: I'm that as a friendly amendment right.

Chair Lauing: What I just said was that I didn't know that you were making an amendment. I thought you were asking questions of the Assistant Director.

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Mr. Lait: I think I can clarify. So, the Chair’s motion which was seconded by the Vice-Chair was to move the Staff report which includes all of these amendments already.

Commissioner Alcheck: Oh.

Mr. Lait: So, you’re going through each one to see if there’s agreement or if there needs to be... so you don’t need to make an amendment to this.

Commissioner Alcheck: I see so these are included in (interrupted)

Mr. Lait: Yes.

Commissioner Alcheck: These amendments are included in your (interrupted)

Mr. Lait: All nine of these are incorporated into the ordinance that we’re (crosstalk)

Chair Lauing: This is already in the ordinance.

Commissioner Alcheck: If we disagree with one of these... Is it just these three?

-
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Mr. Lait: There are nine amendments that we're going to go over and all (interrupted)

Commissioner Alcheck: Are we doing three at a time or do you want (interrupted)

Chair Lauing: No, we're going to do them in order.

Commissioner Summa: Just going down the line.

Commissioner Alcheck: So, let me just clarify here. Should I speak to a problem I have with all nine or do you want me to speak to only a problem I have with the first three?

Chair Lauing: We're going to do all nine in order. Whoever wants to comment on one through nine can do that.

Commissioner Alcheck: Oh ok.

Chair Lauing: But I'd like to hold amendments to these issues until those nine are done just so we have that.

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1 Commissioner Alcheck: I understand so well let me just ask a quick question here. If for
2 example, I didn't like the language of Number Three. You don't want me to mention that now?

3

4 Chair Lauing: You can mention it now. I'm just saying that let's get through the nine before we
5 make amendments to these provisions. I just think that is clearer to get the whole picture of
6 what's in the ordinance because something that might be addressed in other areas of the nine
7 would be pertinent but we'll come back and no one is going to be left out to make
8 amendments.

9

10

11 Commissioner Alcheck: Ok but these are amendments.

12

13 Chair Lauing: No these are parts of the ordinance that have been changed since the last time
14 we saw them by Staff.

15

16 Commissioner Alcheck: Ok.

17

18 Mr. Lait: So maybe I can tee up the next item. So, Number One is incorporated into the
19 ordinance so Item Number Two has to do with basements and we're just clarifying that
20 basements can be placed under ADUs. And we're saying that they have to be under the

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1 footprint of the ADU structure and so if we look at Packet Page 24 and... Yeah, Packet Page 24,
2 in the middle of the page Section D we talk about setbacks and this section is dealing with
3 additional development standards for detached accessory dwelling units. What we're saying is
4 that... Oh, let's see here. Yes, that it needs to... Let's see is that one doing it? Yes, that the
5 basement shall be located or may be located in the rear yard provided it meets those
6 requirements. So, this is just a... I mean from our perspectives just a clarification but we did
7 hear a comment from Commissioner Waldfogel about light wells and things of that nature so
8 that might be a point for discussion.

9

10 Chair Lauing: So, the first light that was on was Commissioner Gardias speaking to Item Two.

11

12 Commissioner Gardias: Thank you. So, we talked about this at the prior hearing and I think this
13 is very important and I'd like to just take some time to discuss it because this placement of ADU
14 6-feet from the rear fence... 6 or 8? 6-feet from the rear fence it brings substantial change to
15 the town. And after our last conversation, I looked up the photo maps... aerial maps and as I
16 suspected there is a number of the trees that are placed... that grow along the rear fences. So
17 now if you imagine that Palo Altans will start building ADUs very close to the rear fence, it will,
18 of course, affect the trees that currently separate the properties. And this is... it is prevailing
19 pattern within the pattern that there is lots of trees growing between two lots that are joined
20 with the via rear fences. So, we cannot, of course, override state law, however, we could

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1 somehow ease up the requirements so automatically placement of the ADU 6-feet from the
2 rear fence doesn't automatically remove the trees that grow frequently within the fence lines.
3 So, for this reason, I disagree with applying the setback for the detached ADUs. Specifically,
4 when they are placed along the or close to the rear fence, 6-feet because as I already discussed
5 this at the prior meeting it would affect lots of trees. Of course, there are different trees, there
6 are those trees that have very shallow roots and then pretty much if you build the foundation
7 you would have to either remove or it would affect the tree because you would be removing
8 root line of those trees. But there are some trees that roots of penetrating the ground much
9 deeper below the line of foundation and those trees may be saved if we don't place basements
10 immediately under the line of the detached ADU. So, I propose to retain 20-foot setback which
11 is an existing setback for the basements under... for the basements that would be placed within
12 the rear part of the lot.

13

14 Chair Lauing: Commissioner Waldfogel.

15

16 Commissioner Alcheck: Is that... I'm sorry just a quick clarification. Does that have to be
17 seconded? How does this work?

18

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1 Chair Lauing: No, we're holding on any amendments to these changes until we've gone through
2 all nine. And then we're going to come back and see if there are amendments. It sounds like
3 [unintelligible](crosstalk)

4
5 Commissioner Alcheck: I guess my question is if it doesn't get a second thought then do we
6 really want to spend too much time? That's all I'm asking. I'm not suggesting it won't. I just
7 need to understand how much time are we going to spend on this proposal if there isn't a
8 second?

9 Chair Lauing: The proposal is to go through all nine... the proposal (interrupted)

10

11 Commissioner Alcheck: No, I mean his proposal.

12

13 Chair Lauing: When it comes back to making amendments to these nine and anything else that
14 are in the agenda, he can make that amendment. So Waldfogel is up for Number Two.

15

16 Commissioner Waldfogel: Great. I think I need a little bit of clarification on the idea of setbacks
17 with ADUs because in the rest of the code we have tables that stipulate setbacks and a bunch of
18 other codes that refer to what is and isn't allowed in setbacks. And then in this code, we have
19 Section D that describes setbacks and I'm not sure whether these setbacks then become the
20 overriding setback within this scope. Is what's confusing about this is I've been looking at other

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1 codes that refer to other kinds of encroachments. I mean it's not just light well encroachments
2 but things like cornice encroachments, bay window encroachments, chimney encroachments
3 into setbacks and I'm not quite sure how to read those codes relative to these definitions that
4 now have a new definition relative to property lines. Do you want some examples of those?
5 These would be codes like 1812050 permitted encroachments, projections and exceptions. So,
6 I'm just trying to get ahead of what applicants may or may not ask for. You know will they ask
7 to put a chimney into that 6-foot... a chimney encroachment into that 6-foot setback and would
8 that be allowed? So, I think we can certainly had light wells to this innumerate list but do we
9 have to add other kinds of things to this list?

10

11 Mr. Lait: That's a question?

12

13 Commissioner Waldfogel: That is, yes. Question mark.

14

15 Mr. Lait: So yeah, I think that's a good idea. We don't have anything that speaks to permitted
16 projections like we do in other areas of the zoning code and so yeah, eaves are common.
17 Possibly... I don't know if we're doing actually chimneys anymore but the vents for... but vents
18 are restricted I think by that one 6-foot (interrupted)

19

20 Commissioner Waldfogel: Well chimneys are an architectural element too potentially.

-
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Mr. Lait: Well that’s true. So yeah, I think it’s perfectly fine to borrow from other sections of the code to establish a 12-inch project for some kind of horizontal projections for [unintelligible].

Commissioner Waldfogel: Well I guess the question is what’s the simplest way to capture this because in the rest of the code it’s captured uniformly in terms of setbacks but here we’re allowing something to be built in the setback. So now how do we capture (interrupted)

Mr. Lait: So, I would suggest that we do a little romanette number I under D and say exceptions and say the following exceptions... This is Packet Page 24. You know the following may encroach into a setback and we stipulate eaves or similar type of or features.

Commissioner Waldfogel: Architectural elements.

Mr. Lait: Yeah architectural elements.

Commissioner Waldfogel: I don’t want to try to draft it here (interrupted)

Mr. Lait: Right.

-
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1 Commissioner Waldfogel: But I think you get the spirit of it and then just very briefly I just want
2 to comment on Commissioner Gardias's point. I mean I think there is a tree issue and I hope
3 that our Tree Preservation Ordinances are strong enough to prevent this case say of putting an
4 ADU basement that's within the dripline of a neighbor's tree. So, I hope we can capture that
5 and that that case is captured in our tree ordinance. I don't know, do you know whether it
6 would be or not?

7

8 Mr. Lait: Yeah so, I can speak to on Packet Page 25, protected trees are... no protected tree
9 shall be removed for the purposes of establishing an ADU. But in listening to Commissioner
10 Gardias's comments I'm wondering if that section doesn't need to get adjusted somewhat to
11 give the, I don't know the exact title, the City's Urban Forester the discretion to look at maybe
12 there's a clause that's added that says no protected tree shall be removed or caused to be
13 significantly damaged or I'll have to figure out what the terminology is, as determined by the
14 Urban Forester. So that opens up the door for us to sort of look to see about impacts to these
15 other sorts of again protected trees is what we'd be looking at.

16

17 Commissioner Waldfogel: [unintelligible – off mic]

18

19 Mr. Lait: Yeah, I think the definition is expanding with the refinements to the Urban Forestry
20 Plan.

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Commissioner Waldfogel: [unintelligible – off mic]

Commissioner Gardias: Thank you very much Commissioner Waldfogel. So yes, that’s definitely my concern because when I go to some municipalities that have already ADUs and there are many of those. Then there is a tremendous difference between Palo Alto and those towns because you can immediately notice that there are no trees in the backyards and it looks like a barren land. And I would like to avoid this with this ADU Ordinance so I would welcome this addition to this specific clause. But there is something else that I would like to bring to your attention and hear me out, please. I would just like to speak to the subject, we can talk about some other items later on. So, I have another concern and let’s imagine that there are two families that pretty much live across the fence and then they both enjoy their rear yard but then one of them decides to build ADU and rent it out. And then because of the proximity of the ADU that would be built on the neighbor’s lot within just 6-feet from the rear fence, the other family may be at risk of losing their area of leisure. It is because of different factors, it may be because of the noise or it may be because of the height and Commissioner Alcheck talked about the height. So pretty much it’s going to be the rear yard of the other family or the other lot would be affected because of the ADU that would be erected on the lot that’s across the fence. So of course, because it’s a state law we cannot restrict this in any way, however, I was thinking that if there is an agreement between both parties and those both parties decide

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1 to have a civil agreement that would be recorded in the recorder's office that they would
2 decide not to have ADUs. They would restrict their both lots to either JADUs or to the attached
3 ADU that would be in some other parts of the lot, not within the backyard. That agreement
4 should be honored by the state. I hope it would be so my proposal would be to allow and just
5 put in the writing that if there is an agreement between the two parties of the adjacent lot to
6 restrict place of the ADUs on those two lots. That agreement would be regulating the
7 placement of ADUs or some other accessory units on both lots. And the question that I would
8 have to Albert here is that I hope that such private agreement would be allowed and would not
9 be overridden by the state law. Would this be a case?

10

11 Mr. Lait: No that's not the case. So, I mean people can have an agreement, a private
12 agreement but the state law is clear that you can... and to the extent that it conflicts with state
13 law. To property owners can make an agreement but I mean (interrupted)

14

15 Mr. Albert Yang, Senior Deputy City Attorney: So, the state law really only speaks to what the
16 City can require. I mean but yeah, I mean property owners could enter into private agreement.
17 There's nothing stopping that from happening.

18

19 Chair Lauing: But in any case, it doesn't apply to this ordinance.

20

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1 Mr. Yang: Right. It's not something that we would (interrupted)

2

3 Commissioner Gardias: The agreement would not be pretty much valid because the state law
4 would override it. That's what you're saying?

5

6 Commissioner Alcheck: No, it's not that it wouldn't be valid, it's not something that would be
7 enforced by the City.

8 Mr. Lait: That's right.

9

10 Commissioner Alcheck: If for example your neighbor agreed to do something and you validated
11 that agreement, you would take them to court. And while the City would be able to not allow
12 him to build something, you the party to that agreement presumably could address your rights
13 in a court of law. So, I think this is a very nuanced question that doesn't really pertain
14 (interrupted)

15

16 Chair Lauing: Let's get back on track here for the ordinance so thank you. Commissioner [note-
17 Vice-Chair] Monk.

18

19 Vice-Chair Monk: I think that we just need to comply with the existing laws on the detached
20 ADUs, the local zoning and state building requirements and to meet all the safety requirements.

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1 I think we talked about air and light complying with egress. So as long as that's all incorporated
2 here then I would support it. I'm here because of the trees. I love the trees here. I think that's
3 what distinguishes Palo Alto. I certainly would not want anything to impact trees, however
4 personally I do prioritize housing over trees so I think that that is something to consider and
5 take that off the table. I think that our City probably does have enough safeguards in place to
6 protect the trees as Commissioner Waldfogel had mentioned earlier. And there were a few
7 other points that Commissioner Gardias brought up that I thought were interesting but I think
8 that there shouldn't be a greater requirement put on ADUs that aren't put on the main
9 property in regards to the setbacks.

10

11 Chair Lauing: Commissioner Summa.

12

13 Commissioner Summa: So, thank you. I agree with Commissioner Gardias and Waldfogel that
14 we should be looking... I agree with the amendments about encroachments and also with
15 clarifying the tree protection. I think that's a good idea. I also wanted to bring up on Packet
16 Page 23 and 24 in both the attached and detached additional development standards Staff has
17 identified a more appropriate height in both cases for Eichler tracts and I would like to see that.
18 Knowing that there's a lot of houses all over Palo Alto in other neighborhoods that aren't
19 Eichlers but they are that same sort of profile where they are 12-feet tall on a slab. And I think it
20 would be appropriate to have that same kind of height compatibility restriction across all

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1 neighborhoods where there are houses that have that similar low profile. That's something that
2 I wanted to add.

3

4 Chair Lauing: Commissioner Alcheck.

5

6 Commissioner Alcheck: Great. So, I would suggest that I think a more palatable ordinance is
7 better than one that unnecessarily sorts of frightens individuals. I think the likelihood of
8 basement development under 600-square foot accessory dwelling units is really unlikely.
9 Particularly because the total square footage of the ADU would... The total permitted square
10 footage of the ADU would include the basement area so there's a huge incentive for example in
11 our code to develop basements under your primary resident. It's because we don't count that
12 square footage because it's presumable non-offensive, it's beneath the ground. The question is
13 when you come into an area that we've never allowed development in before which is the 20-
14 foot rear setback so there are couple things that I want to suggest here. The first is I think we
15 shouldn't allow the development of basements under ADUs within 20-feet of the rear property
16 line. Right we don't allow that now so this isn't creating a greater restriction than we currently
17 allow and I don't think that very many people are going to be building presumably 400-square
18 foot things under 400-square. This is quite a challenging concept so I mean a very expensive
19 endeavor essentially to build this basement within 6-feet of a property line. I'll give you just a
20 little bit of background information on basements. Basements have to be dug in a way that

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1 complies with OSHA's requirements to shore. I mean these are when you build... when you dig
2 you have to dig in a way that doesn't allow the dirt to collapse on the individuals inside of that
3 space which means that you have to do a cut towards the extremities of your hole at a 45-
4 degree angle, 4-feet from the base of your dig. So, if you build 9-feet below the property
5 ground floor then presumably you go 1-foot, 1-foot, 1-foot, 1-foot which means you would be
6 actually on the fence line. You can't do that. You can't dig a hole in your neighbor's property in
7 order to build your hole so you have to short... My point is that this is a very expensive idea and
8 I think everybody's scared that somehow, they are going lose a tree or suffer because of it. So,
9 in an effort to create more support for this ADU Ordinance in our community I think we should
10 eliminate what I think is essentially sort of a Red Herring. This isn't going... I don't believe we're
11 going to see a lot of basements dug 6-feet from rear property lines under these detached ADUs.
12 So, if we're comfortable I would suggest that this ordinance implemented to say that there be
13 no basements within 20-feet of a rear property line. That's to say that if someone does want to
14 build an ADU with a basement and they do it within the same area that you can build a
15 basement today that would be presumably non-offensive.

16

17 Let me just respond to a couple comments. If it's not a protected tree and it exists on your
18 neighbor's side property line that wouldn't prevent any homeowner today from building a
19 basement under their single-family residences. And I would be uncomfortable with creating
20 rules that made a development of an ADU more difficult than the house. So, to the extent that

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1 we allow the development A, B, or C like the tables and all the things we've referenced today to
2 the extent that we allow for a single-family home, I think we should allow it for a basement... I
3 mean for an ADU. Since we don't allow houses to build basements within 20-feet I don't think
4 we should allow the ADU to build a basement within 6-feet of a rear property line. So that
5 would be the first sort of change particularly for Number Two. So, I would not... It's not that I
6 wouldn't clarify I would clarify that the basement of an ADU must conform to the current 20-
7 foot setback applicable to the rear property line. And it can remain the 6-foot setback for the
8 side property presumably because we allow that now. So that's my single comment on Item
9 Number Two. That would be the proposal. I think that while worded differently that
10 Commissioner Gardias's comment, I think that presumably, he would accept that idea and so
11 when we get to the point where we're allowed to make that motion I think you'll have some
12 consensus there.

13

14 Chair Lauing: Ok are we ready to move onto Item Three?

15

16 Commissioner Alcheck: Can I start?

17

18 Vice-Chair Monk: I'm just confused. It would be a lot easier for me personally if we could just
19 make the motion after we discuss it because I feel like I won't personally be able to remember

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1 all of the different issues. It's odd to me that we're having a deep discussion and we're not
2 finishing it and moving on. I just don't understand that process-wise.

3

4 Chair Lauing: Well the process that we agree on was to do that so we would have a perspective
5 on all of the changes that Staff has made. Presumably, that means that they haven't made
6 other changes for other good reasons so then we can go on from there. That was why.

7

8 Vice-Chair Monk: So, I'd like to make a motion that we make a motion after we discuss each
9 item.

10

11 Chair Lauing: It doesn't need a motion.

12

13 Vice-Chair Monk: Can someone make a motion at this (interrupted)

14

15 Chair Lauing: So, do we want to do... other opinions. Do we want to change up the process?

16

17 Vice-Chair Monk: It's going to be difficult to revisit everything. I think we're ready to close on at
18 least One and Two, right?

19

20 Chair Lauing: Commissioner Summa.

-
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Commissioner Summa: I think we started a process and we should continue it unless you want to go back and restart.

Commissioner Gardias: If I may speak. I'd be comfortable just to make a motion and then just close on Number Two and then move to Number Three. Otherwise, we're going to forget what we discussed and it would be really hard to pretty much (interrupted)

Chair Lauing: Ok, if that's what folks want to do.

Commissioner Gardias: Reiterate (crosstalk)

Chair Lauing: Then we're going to go Two and then we'll go back and get One and we'll come down after that.

AMENDMENT #1

Commissioner Alcheck: I'd like to suggest that we add language that restricts the development of a basement under an ADU to conform with the setbacks in place in our code. Meaning that

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1 the basement of an ADU would have to be within... no closer than 20-feet from a rear property
2 line.

3

4 Mr. Lait: Can we just say no basements in the required rear yard? I mean isn't that what you're
5 getting at?

6

7 Commissioner Alcheck: In the required rear yard, yeah that's fine actually. Yea.

8

9 SECOND

10

11 Commissioner Summa: I'll second that.

12

13 Chair Lauing: So, we have to (interrupted)

14

15 Commissioner Alcheck: Thank you.

16

17 Chair Lauing: Make sure... Yeah exactly. This happened well so I'm just saying that we have to
18 make sure that amendments get articulated by Staff and where so we can read where the
19 ordinance is going.

20

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1 Mr. Lait: I think we can manage that. I think what's more important is just getting the
2 Commission's general direction on that so but I think on your point Commissioner Alcheck,
3 sorry for pointing if that is acceptable to the maker and the seconder then that can just be
4 folded into the motion. So, the question comes to you Chair and Vice-Chair, do you accept that?

5
6 Chair Lauing: Right but I'm just saying that as the maker I'd like to know where it is and what it's
7 modifying and it's not reflected in the amendment.

8
9 Mr. Lait: Yeah so typically what we do because we can spend all night wordsmithing and trying
10 place (interrupted)

11
12 Chair Lauing: Don't want to do that.

13
14 Mr. Lait: Where it goes. We're comfortable taking the general direction and then finding the
15 appropriate place that would implement that provisions. So, if it's acceptable to you we would
16 just like to get that general direction and then we'll place it where we need to go. And we can
17 certainly send you guys a copy of the report that goes to Council with that change so you can
18 see what's going on but I'm hearing clearly what the intent is. On detached ADUs to not have
19 basements in the rear yard.

20

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1 Chair Lauing: So just restate that amendment that we're voting on. That's it?

2

3 Mr. Lait: That's it.

4

5 Chair Lauing: No basements in the rear yard?

6

7 Mr. Lait: So, for detached ADUs no basements would be allowed in a required rear yard
8 setback.

9

10 Commissioner Alcheck: That's exactly right. The idea here is that you couldn't dig (interrupted)

11

12 Chair Lauing: So, I'll accept that. Will you accept that as the seconder?

13

14 Vice-Chair Monk: I accept the motion that Staff heard from the maker of the motion. I think
15 what Chair iterated was slightly different so it's a little confusing.

16

17 Chair Lauing: No, I'm agreeing with what he said and he recapped what Commissioner Alcheck
18 said.

19

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1 Mr. Lait: So now the motion reflects this one change that for ADUs the basement... a basement
2 ADU for a detached accessory structure would not be allowed in the required rear yard setback.
3 That is now part of the main motion.

4
5 Commissioner Alcheck: So, the second is not particularly necessary because it wasn't
6 unfriendly.

7
8 Mr. Lait: That's right. It was accepted by the makers and the seconder

9
10 Vice-Chair Monk: And does that incorporate the 20-feet and the 6-feet?

11
12 Commissioner Alcheck: Yeah.

13
14 Commissioner Waldfogel: [unintelligible -off mic]

15
16 Commissioner Alcheck: So, hold on just to be clear I actually do... To speak to Commissioner
17 Waldfogel's comment just now. I do think that there is a discussion that should take place about
18 the development of ADUs with the setbacks. Unfortunately, Number Two is just about
19 basements so is this the appropriate time to expand that discussion or are we coming back to
20 it?

-
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Commissioner Waldfogel: [off mic] I was reading this as this is our setback discussion.

Commissioner Alcheck: Ok because I read it as clarify that setbacks for detached ADUs apply (interrupted)

Commissioner Waldfogel: [off mic] I was just using the first three words or four words setbacks.

Commissioner Alcheck: Well let me put that to the Chair. Chair do you want to discuss setbacks in general now or do you want to move on?

Chair Lauing: That's fine. We can be immediate and move on. I'm sorry I can't recognize the public at this point.

Mr. Lait: Right so as I understand it we're going to continue the conversation on these... on the projections and so the question then as I understand it is to the maker and the seconder a request to amend (interrupted)

Commissioner Alcheck: No, no, sorry, let me clarify. I think my motion should stand as is.

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1 Mr. Lait: I'm not changing your motion. Yours is incorporated.

2

3 Commissioner Alcheck: Oh ok, alright.

4

5 Mr. Lait: We're moving on. We're marching forward. We're going to get this down and
6 Commissioner Waldfogel had made a suggestion that he would like to have some provisions in
7 the ordinance that address projections into required setbacks for detached ADUs. And the
8 types of things that were noted were the eaves and similar architectural projection and these
9 light wells. And so, what we would do barring any specific direction from the Commission is to
10 come up with like a 12-inch projection allowance for eaves and similar architectural projections,
11 probably similar for chimneys and things like that. And we would preclude light wells in the
12 required side yards is sort of the direction that we would go. So, unless you have any more
13 specificity about how you want to approach that, that's what we would do. If that's acceptable
14 to the maker and the seconder we could incorporate that into the motion.

15

16 Commissioner Alcheck: Wait before you wrap it up can I ask Commissioner Waldfogel if I may
17 amend that suggestion?

18

19 Commissioner Waldfogel: What is your (interrupted)

20

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1 Commissioner Alcheck: So, we currently have a place in our code that allows for these
2 projections within 6-feet of your side property line and our code does the same thing for
3 projections on single-family residences with the 20-foot rear setback. The question is do we
4 want to maybe address projections only on that rear line? To suggest that a project of a
5 chimney on the rear line which would never happen in our code shouldn't be allowed. So, if you
6 are going to have a 1-foot projection that should actually start at the 6-foot line and your ADU
7 should be the 7-foot line from the rear property setback as opposed to the side. Do you think
8 that makes sense what I'm trying to suggest?

9

10 Commissioner Waldfogel: [off mic] Yeah this is the problem with trying to do this on the fly.

11

12 Commissioner Alcheck: I agree.

13

14 Commissioner Waldfogel: [Off mic] I mean I think we're trying to address... I mean the rear yard
15 is a new case. I'm sorry the rear yard is a new case. The side yard I am more... I'm sorry? I mean
16 the side yard I agree there are some existing standards. I just can't see through to all
17 consequences and that's where I am right now.

18

19 Commissioner Alcheck: That's why I'm suggesting we suggest that projections not affect the
20 rear yard since they would never have happened within the 20-foot setback line. So, I guess

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1 what I'm trying to say is if we're talking about a 1-foot projection here or even a 2-foot
2 projection or a... well the light well issues is now moot but a 3-foot projection, why couldn't we
3 encourage the parcel owner to develop their ADU in a way that didn't cause that?

4
5 Commissioner Waldfogel: Right. Well, that's what we're trying to do and I think what we're
6 trying to do it generally encourage them to face all the ADUs stuff toward the main house and
7 not toward the neighbor.

8
9 Commissioner Alcheck: But an eave wouldn't be facing... an eave would be a (interrupted)

10
11 Chair Lauing: But the Commissioner (interrupted)

12
13 Commissioner Alcheck: Do you like that idea? That's my only question.

14
15 Commissioner Waldfogel: Yeah, I mean that's something I'm open too.

16
17 Chair Lauing: But getting all this level of detail worked tonight is just you know I think
18 (interrupted)

19

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1 Commissioner Alcheck: I'm saying this specific. I'm saying requiring that projections don't cross
2 the 6-foot rear... new 6-foot rear requirement so that all projections and all potential... that
3 nothing exists within 6-feet essentially.

4

5 Commissioner Summa: Of the rear.

6

7 Commissioner Alcheck: Of the rear so we've not dealt with the basement. We said the
8 basement can't happen within the 20-foot rear setback. So now I'm suggesting that we not
9 violate that 6-foot line with above ground projections simply because we've never even been in
10 this space before with the exception of detached garages which are a little different than
11 habitual spaces.

12

13 Commissioner Waldfogel: It's just that our general side yard setbacks are 16-feet so we're
14 (interrupted)

15

16 Commissioner Alcheck: Street side.

17

18 Commissioner Waldfogel: Street side.

19

20 Commissioner Alcheck: Which is technically a front (interrupted)

-
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Commissioner Waldfogel: Well so it's ok so why don't we just say within because in R-1 it's 8- feet for R-1 7,000 and above.

Commissioner Alcheck: Whatever the (interrupted)

Commissioner Waldfogel: So, whatever the existing.

Commissioner Alcheck: The existing shortest setback is.

Commissioner Waldfogel: Yeah that's I'm fine with that as long as we're complaining with that.

Commissioner Alcheck: And let me be clear, this wouldn't apply to existing detached garages that get converted that are already inside of these side setbacks because those are sort of by state law convertible. (crosstalk) The question is do we want to encourage people to build new things as close as they possibly can to their neighbor's property when we never really allowed it before.

Commissioner Waldfogel: But even for those conversions we don't want them to face the mechanical stuff toward the neighbor. We want them to face (interrupted)

-
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Commissioner Alcheck: Agree.

Commissioner Waldfogel: So that's kind of where I'm going.

Commissioner Alcheck: I like the idea of using... Especially when you start talking about R-10,000 and above, well then, you're talking about a lot of lot space that they could potentially use. So, then the notion of having flexibility is something I like.

Commissioner Waldfogel: Do you have that? Do you have enough information [unintelligible] (crosstalk)?

Chair Lauing: Absolutely not.

Commissioner Alcheck: Would you mind rephrasing it? I think you got it that last time and I think it would help if you rephrased it for Staff.

Chair Lauing: Because we want to give the Assistant Director some concept direction but not the wordsmithing and try to condense this. Turn on your mic.

-
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1 AMENDMENT #2

2

3 Commissioner Waldfogel: Yes, so the direction is to keep encroachments out of existing setback
4 standards. Yeah for the district.

5

6 Chair Lauing: That's fine with me.

7

8 Mr. Lait: So just to clarify so for ADU projection... for architectural projections including light
9 wells would (interrupted)

10

11 Commissioner Waldfogel: I think light wells are off the table if we remove basements.

12

13 Mr. Lait: Oh, right that's true. Ok.

14

15 Commissioner Waldfogel: Solved that problem.

16

17 Mr. Lait: So architectural projections would not be allowed in any required rear or side yard for
18 the underlying base district.

19

20 Commissioner Waldfogel: Right.

-
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Mr. Lait: Ok that's clear to me.

Chair Lauing: Commissioner [Note- Vice-Chair] Monk are those acceptable?

Vice-Chair Monk: Just that I'm clear that is further restricting than what the (interrupted)

Mr. Lait: Actually, as I think about that it creates a (interrupted)

Vice-Chair Monk: Why are we restricting it more than what the primary... what are the resident setbacks are?

Mr. Lait: Right so I think that's what... Yes, that's true. It would be more restrictive than the principal residence on the lot based on the way that was worded but I also realize that creates another challenge in that for detached ADUs they're located in the rear yard. And if we're saying no projections into any of the required yards... there's no projection. There are no eaves on the structure, there's no... it's just straight lines and no projections which does seem a little bit maybe not in line with what we're talking about.

Commissioner Alcheck: I'm sorry (interrupted)

-
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Vice-Chair Monk: Just to... I think the goal tonight is to address the concerns that the ordinance has some loose holes on it. I think if we're going to make such a restrictive amendment it might cause Staff to encounter more issues with applications. So, I just want to make sure that what we're doing is to answer and solve for what you're looking for as opposed to creating additional barriers and questions.

Mr. Lait: I guess how'd I respond to that is we've identified nine items that we think need to be modified. The Commission of course as you are sort of ombudsmen to the community as well and women, ombudswomen. And so, you're hearing from folks about what's happening and so I think this ordinance is before you and if we need to make some changes here and there I think that's fine. But I do think that the major sensitive policy conversations have been addressed by the Council unless we're hearing that there are some major problems with some stuff. I think they'd want to hear about that but you're right, it's not the intent that we're going over this entire ordinance and trying to present something new to the Council. I'm hearing something that was frankly its missing in our ordinance is how to address projections. I think that by saying no projections in required yards, we're pushing the ADUs further away from the side and we're speaking of detached ADUs. There were pushing the setback away potentially for anybody who wants to have an eave for their structure and so again, I think that a 12-inch projection into the side (interrupted)

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Commissioner Alcheck: Can I clarify?

Vice-Chair Monk: No, I have the floor, I have the floor and (interrupted)

Chair Lauing: Commissioner [Note- Vice-Chair] Monk.

Vice-Chair Monk: my response is I would like to propose that we accept Commissioner, I think it was Alcheck's original amendment and bifurcate and discuss Commissioner Waldfogel's additional piece of that amendment which goes to the architectural projections for perhaps [unintelligible] (crosstalk)

Mr. Lait: Just so we're clear (interrupted)

Vice-Chair Monk: Because I think (interrupted)

Mr. Lait: That amendment is done. That's done. You've already... the Commission has already accepted the no basements in the required rear yards so we don't have to talk about that anymore.

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1 Vice-Chair Monk: I think this is an important issue and I would just propose that we talk about it
2 in a little bit more detail after Staff has might have had an opportunity to get back to us on
3 what's involved with voting (interrupted)

4
5 Mr. Lait: So, I can tell you how we'd approach it today. We would look at an ADU and we'd look
6 at the base district requirements for projections. And I think we have a minimum projection
7 about how far you need to maintain from the property line and how far at maximum you can
8 project and so we'd probably just look at those same standards for the base lying district to
9 make a decision about how far these architectural features can project. I think it's helpful to
10 add some specificity to it but we're talking again about detached accessory structures which are
11 mostly going to be located in the rear yard. So, they are most certainly going to be projecting
12 into the rear yard at some point away from the building. The question is how far... You know I
13 think it's really the issue of (interrupted)

14
15 Commissioner Alcheck: If I could clarify? I think we... there's a piece here if I could just clarify I
16 think would make this easier. I wasn't suggesting not in the rear yard. I was suggesting is we've
17 created this... we've gotten our heads around this idea that these buildings will be within 6-feet
18 of a fence on the rear. That is the only new part. Today you can do 6-feet from your side yard or
19 7 in a certain zone or 8 but the new change is we've gone from 20 [note-feet] to 6 [note-feet] in
20 the rear. And so, all I'm suggesting is can we suggest that the projection's equipment etc. not

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1 cross that 6-foot threshold from the rear. So, I am not suggesting moving these 20-feet up, I'm
2 suggesting moving them 1-foot away if it's a 1-foot eave because we've never really been there
3 and if we're comfortable with 6, can we make 6 really 6?

4

5 Mr. Lait: And so yeah so it sounds like you're trying to make a motion here that is to be asked of
6 the maker and the seconder to have a requirement that says any eave projections or similar
7 horizontal or vertical architectural projections shall maintain at least 6-feet clear to a side or
8 rear property line.

9

10 [Note – everyone started talking at once]

11

12 Commissioner Alcheck: [unintelligible- off mic]

13

14 Vice-Chair Monk: That's your intention?

15

16 Mr. Lait: Just rear.

17

18 Commissioner Gardias: No this doesn't make sense.

19

20 Vice-Chair Monk: [off mic] That's your intention isn't it?

-
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Mr. Lait: I mean alternatively we could just table this item and maybe get back to the other ones. It sounds like... I mean (interrupted)

Commissioner Alcheck: [off mic] I just wanted to make sure [unintelligible]

Vice-Chair Monk: [off mic] Can we [unintelligible] and talk about it later?

Mr. Lait: I'm clear on that.

Chair Lauing: Let's just do a little interim recap here. I think the issue is as I framed it, to begin with, Staff came with substantive work after we spent a number of hours last time and have tried to distill that into nine things for right now in the ordinance that's been alive and approved by Council over the last nine months and we have thirty data points. But we're drilling... at this point, we're drilling down on a lot of level of detail and side points that I don't know that we have enough data to be making these judgments tonight any more than we did a month ago. And I think we certainly would have more data in 6-months so we can go in any direction that you want but I think we're going beyond the intent of at least what Staff proposed in the revised ordinance. And then we're hearing that there are more amendments envisioned to that.

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Commissioner Waldfogel: So, I have a request. I request that Staff come back to us with something analysis on this topic because I think it's complicated and it's probably too complicated for us to get right tonight.

Vice-Chair Monk: Well I think Staff answered the question tonight and I'm at this point prepared to say yes to it because I think Chair already said yes to it so I'm satisfied to move forward and say yes.

Chair Lauing: Yeah but I'm just talking generally for the rest of our discussion for the next few hours. So, process things, we can continue this but I do want to point out that we canceled the first agenda item and a couple people arrived late because they didn't know that we were going to do that. So, when we're done with this item I do want to go ahead a recognize the two public speakers because we moved the agenda. So, let's see further discussion on this. So now that amendment has been incorporated, it's been approved by the maker and the seconder and there's still discussion about this.

Commissioner Alcheck: [off mic] I'm sorry, which version?

Chair Lauing: The rear yard 6-foot overlap.

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1 Commissioner Alcheck: Ok just the 6-foot.

2

3 Chair Lauing: Correct. So, there was discussion on that. Commissioner Gardias.

4

5 Commissioner Gardias: Thank you. Just for the clarity I believe that the state law talks about the
6 wall and there are like an intrinsic projection into whatever setback it may be which are a
7 natural part of a building. And we just cannot restrict those because the buildings cannot exist
8 without eaves unless you build of course Spanish type residence. So, there are natural
9 projections that we should allow or be silent about but you know there are some extrinsic
10 elements like a chimney or light well or bay window and I believe that Commissioner Alcheck
11 was... his intention was to restrict those but I would like to talk about some other points.

12

13 Chair Lauing: Wait, wait, wait, right now we still have this amendment on the table relative to
14 this 6-foot rear setback.

15

16 Commissioner Gardias: It's still?

17

18 Chair Lauing: Yeah.

19

20 Commissioner Gardias: Because I understood that he already accepted (interrupted)

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Chair Lauing: I thought that you were going to speak to that, no?

Commissioner Gardias: Yes, yes but another element. So, the 6-feet we're done with discussion, right? 6-feet that (interrupted)

Commissioner Alcheck: I just want you to know I'm not suggesting that they not be built. I'm just saying that if you build that chimney its outer edge begins at 6-feet so that might require the building, for example, to be 7-feet from the rear property line. So, the only suggestion was we're comfortable now with this 6-foot thing and I don't want to the public to get worked up about the notion that well it's not really 6-feet. They're going to start coming much closer than 6-feet and so I wanted to create this sort of idea that we're not going to have things built within the 6-feet of that rear property line. What we allow on the side property line we already allow elsewhere in our code for the main residence so I assume that we are comfortable with that but this new change essentially saying the 6-foot line is the outer line for your chimney, for your eave and your structure would just have to be a little bit closer to the front of the property. (crosstalk) [unintelligible] that was my target change. You may not agree with it but I'm just explaining it to you.

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1 Commissioner Gardias: Yeah so, I don't agree with this right so I believe that setback would
2 (interrupted)

3

4 Chair Lauing: But you can vote against that when it comes up.

5

6 Commissioner Gardias: So, let me just lay out my rationale so the setback relates to the wall, it
7 doesn't relate to the roof line. So, its natural part of overhang or eave or some other element is
8 an actual part of the building that pretty much either creates or restricts the rain or sun to
9 pretty much to drip on the wall. That's how buildings are built and the state law doesn't talk
10 about the line of the gutter. It just talks about the line of the building of the exterior wall. That's
11 what the setback relates too. So, I think that naturally overhang or eave would be protruding
12 into a setback because that's the state law and that's how I understand. That's like all buildings
13 are built. Chimney that's a different story but I don't believe that we should just pretty much
14 restrict or move the entire building and start measuring from the line of a gutter. That would be
15 pretty much very unnatural, that's how I see it. So ok but that's my perception about this but I
16 would like to just talk about something else.

17

18 Chair Lauing: Are you still on Number Two, Commissioner Gardias?

19

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1 Commissioner Gardias: Yes, yes. It's in regards to the setback so there are a couple of other
2 items.

3

4 Chair Lauing: Other setback items? Go ahead.

5

6 AMENDMENT #3

7

8 Commissioner Gardias: Yes. So, within the same concern, I would like to propose a friendly
9 amendment because I think this is... We still have the amendment right of Commissioner
10 Summer and Alcheck. To the Paragraph K on Page 25, that talks about that no protected tree
11 shall be removed. In lieu to the discussion that we just had with the Assistant Director Lait, I
12 would like to propose that this paragraph is enhanced with the language that there is a concern
13 made for any all the existing trees within the backyard and they should not be endangered with
14 the placement of ADU.

15

16 Mr. Lait: Is that a question for Staff?

17

18 Commissioner Gardias: No that's not a question. That's just proposed language to modify this
19 (interrupted)

20

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1 Commissioner Waldfogel: [unintelligible – off mic]

2

3 Chair Lauing: Ok so I think (interrupted)

4

5 Commissioner Gardias: Would this be legal? Can we restrict this? Can we restrict... Can we
6 impose protection of the existing trees while we placing ADUs?

7

8 Mr. Lait: While Albert looks at that I mean the City... our existing ordinance does already protect
9 protected trees and I think that's the standard that we should use. Not just any tree but
10 protected trees in the ordinance so we're already doing that. I wouldn't see why that wouldn't
11 be a problem.

12

13 Commissioner Gardias: Right but the language of Paragraph K talks about the protected trees.

14

15 Mr. Lait: That's right.

16

17 Commissioner Gardias: I'm talking about some other trees. Protected trees are only a few...
18 some of... that's a subgroup of (interrupted)

19

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1 Mr. Lait: So, I hear you. Right, it is a subgroup and that is a question to the Commission as to
2 whether or not you want... I mean there's a lot of ambiguity there. And you can certainly make
3 that recommendation that Council could certainly have a conversation about how far... whether
4 they want to accept that or not.

5

6 Chair Lauing: I think the problem is you know I'm a tree hugger. I'm a personal tree hugger but
7 the problem here is that we're trying to build housing, that's point one. Point Two is that all of
8 these things are just supposed to be interim till we get more data. So, if we find that in thirty of
9 the thirty houses, ten of them are knocking down unprotected trees then maybe we have to
10 add something to this 6-months from now that says you have to landscape on the side of your
11 yard when you take it down. So, while I'm receptive to that I'm still kind of holding on to the
12 umbrella issue of we're just trying to make substantive changes that Staff has discussed with
13 applicants and we shouldn't be going down to this level at this point. So, I don't think that
14 needs to be in this set of ordinances tonight.

15

16 Commissioner Alcheck: [off mic] If it's unaccepted and [unintelligible] a second. [unintelligible]

17

18 Chair Lauing: Right it's not accepted by me so.

19

20 AMENDMENT #3 DIED DUE TO THE LACK OF A SECOND

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1 Commissioner Gardias: So, let me just propose something else. So, I understand this is off the
2 table, right? Ok good. So now the other item is pretty much placement of 17-feet, one-story
3 ADU within the rear yard and this is a question before. So, let me tell you what my concern is
4 that pretty much is this what (interrupted)

5

6 Mr. Lait: Can... I'm sorry, let me just (interrupted)

7

8 Chair Lauing: Where is this?

9

10 Mr. Lait: The process I understand laid out by the Chair is that we're going over these nine
11 items and we're on number... We just finished maybe Number Two.

12

13 Chair Lauing: Yeah.

14

15 Mr. Lait: And so, but you're talking about height which is not one that we're addressing except
16 for later dealing with the Eichler. And so, I think the idea is to get through all nine and then if
17 we didn't address the issue or concern that needs to be addressed, we'll come back and we'll
18 get that. So, I would have you just write that down so we can try to get off Slide Number Four
19 and go onto Slide Number Five.

20

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1 Vice-Chair Monk: And just to echo, we all love the trees and I think if there's a way to pass onto
2 Council if there's a way to require a replacement tree if trees are taken down I think we would
3 all definitely support. Then I think (interrupted)

4
5 Commissioner Alcheck: I don't think you should speak for all of us. I mean I like trees but I think
6 what you're asking for is very specific and unnecessary so I would actually prefer that you speak
7 for yourself.

8
9 Vice-Chair Monk: Well we made a record of it and I'm satisfied with that. Thank you.

10
11 Chair Lauing: Right but it's closed now and the height issue is definitely further down so if there
12 are any setback issues we agreed to discuss that Number Two. So, if there's anything else on
13 Number Two setbacks? Is your light on for that Commissioner Summa? No, ok. Ok, anything
14 else on Number Two? Ok good so what I'd like to do now is hear public comment from these
15 two folks who didn't know it but who are coming in late because we moved things around. So,
16 Linnea Wickstrom.

17
18 Ms. Linnea Wickstrom: Thank you for adding us in, I appreciate that. Commissioners good
19 evening. I'm a long-time resident of Palo Alto who wants and needs to build an ADU and I'm
20 here just to address the idea of the deed restriction which I know it not formally part of the

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1 ordinance but which I would like to address the Staff proposal and your recommendation going
2 forward to the Council. I was fine with the deed restriction to prevent ADU and main residence
3 from being sold separately. That made a lot of sense in R-1 residences zones but I oppose the
4 adding another deed restriction to the properties. As we all know impact fees add costs for
5 both the owner and the occupants and add another barrier to building ADUs. I oppose the
6 particular deed restriction for several reasons. A: It adds another barrier when the City's stated
7 goal is to remove barriers. It's hard to define. I may be missing something here but how would
8 allowable occupancy be defined under this deed restriction? The owner and the family? Who's
9 family? Brothers? Cousins? Siblings? Children? Based on occupant income and what income
10 would that be? Based on rent charged, what rent would be allowable? Would caregiver in-kind
11 remuneration be counted as income for the occupant or would it be on class of person? Senior?
12 Disabled? Veteran? Low Income? Again, how low? How would it be enforced? What happens
13 when circumstances change? What if I suddenly need income six years from now? It strikes me
14 as messy, very messy. It would probably require an ordinance all to itself if I'm not missing
15 something huge here and I recommend that to get ahead of the wave and to encourage ADUs,
16 you eliminate impact fees or at least slash them to 10 percent of current levels. Thank you very
17 much.

18

19 Chair Lauing: Thanks for your patience and thanks for coming. The next speaker is Roger no last
20 name.

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2 Mr. Roger Larick: Last name is Larick. I'm not familiar with the process and I didn't study
3 government so I don't know how government works but I think if I'm invited to a public hearing
4 I'd be able to speak. I had been to a couple of these subject matters related to ADUs. I've heard
5 you speak and although I have generally supported a lot of the attitudes Michael [note-
6 Commissioner Alcheck] that you project. I would have to disagree with you on the basement
7 comment that came up tonight about... it was buried in Number Two but it was in regards I
8 think I heard... If I heard correctly that the proposal that the rest of you are all considering is to
9 disallow basements altogether on ADUs. And if that's the case or at the 6-foot marker from the
10 edge of the property that they be disallowed at that point. Wherever you're going with the ADU
11 process I would encourage that basements be allowed to be part of the equation for a couple of
12 supportive reasons. My understanding of ADUs is the maximum size is I think either 900-feet or
13 50 percent... no more than 50 percent of the remaining household size. So, if the size lets say
14 900-square feet and 400 or 500 of them can be located at the basement level then that means
15 the obtrusive structure on the neighbor's lot does not need to be so large in order for them to
16 still have a pretty sizeable livable space. The other consideration would be basements go into
17 the ground as we all know and the natural temperature of the earth about 10-feet down is
18 approximately 52-degrees year-round. That provides a passive heating source in the winter
19 when it's colder, rarely but when it happens. It's a cooling source in the summer which Palo

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1 Alto tends to bake. That is an opportunity to make the ADU more livable without consuming
2 access energy to get it done.

3

4 The other thing is as far as the cost considerations about how it's too expensive, I'm not going
5 to go head to head with you on what it costs to construct. I've got a couple of years in
6 construction, I'm a CPA so I have a little knowledge of it but without going head to head on
7 those topics let the developer decide. The for sale or the value of real estate in Palo Alto is
8 approximately \$1,100 to \$1,200 per square foot if you look at what things cost in Palo Alto. The
9 cost of construction including capitalized interest cost is about one-third of that at best
10 depending if... even if your project extends to long. The cost of a basement is not as obtrusive
11 as you might believe so for the ADU conversation to exclude the basement. I appreciate some
12 of the concerns that you had but I would encourage that concept of not allowing basements on
13 ADUs in any circumstance be shelved for the benefits that I've laid out. Thank you for letting me
14 speak.

15

16 Chair Lauing: Yeah again thanks for coming and your patience. Ok, I'd like to take about a 10-
17 minute break and then come back to this. And also consult with the Assistant Director and see
18 how we go from here so let's take 10.

19

20 [The Commission took a short break]

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Chair Lauing: Ok we're back in session. Obviously at the late hour, 9 o'clock here, we really need to try and pick up the pace and let's get through these top nine with as concise as comments as we can. And we're not moving onto Number Three and then after the nine, we'll see where we go in terms of timing and follow up. I do feel like we're at the point that probably those two big areas for input might have to be post ponded to a next meeting. Those two items that you asked for input on like the... I don't know what you call them. At the end... no inclusive of what needs to go in the ordinance but we'll see where we are in another hour and a half. Ok so Number Three is clarifying bonus lot coverage and floor area and a concise way to do this is if you agree let's... that's great. If you have any questions or comments or objections you know we can speak to that and that may pick up the pace a bit. So, let's see first is Commissioner Alcheck.

Commissioner Alcheck: I'll try to be efficient.

Mr. Lait: I'm sorry, sorry to interrupt but so just to be clear. So, if anybody has any objection to any of these, that's when we'd want to speak to that issue.

Chair Lauing: That's right.

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1 Mr. Lait: Thank you.

2

3 Commissioner Alcheck: So, as it's written the idea is that when the development of a new one-
4 story accessory dwelling unit would result in the parcel exceeding the maximum floor ratio an
5 additional 175-square feet (interrupted)

6

7 Mr. Lait: Ok that is not this one. I'm sorry Commissioner. This is specifically dealing with... Oh,
8 I'm sorry. I'm wrong. I'm wrong, I'm sorry. I'm subverting our efforts to be efficient. I apologize.

9

10 Chair Lauing: Yeah but your penalized five minutes.

11

12 Mr. Lait: I'll go retire in the other room.

13

14 Chair Lauing: Carry on Commissioner Alcheck.

15

16 Commissioner Alcheck: So, here's my question, what does it mean exceed? Let's say I'm at...
17 let's just for the sake of this purpose let's say that I'm allowed to have 1,000-square feet of
18 floor area and my home is 900. Ok clearly if I built any meaningful ADU I would exceed it
19 because I would likely build something more than 100-square feet. So, are we suggesting that
20 you would qualify for the 175 if you were within 900-square feet of your maximum? So, for

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1 example, if I had 20... If I had... Well, let's use a different number. Let's use 3,000 as my
2 maximum floor area. Let's say if my existing structure was 2,150 which means I have 850-
3 square feet. Would I be permitted to build a 900-square foot ADU and exceed my maximum by
4 50?

5
6 Mr. Lait: Yeah, the intent here is to let somebody build out their ADU and where it gets
7 conflicted with the max FAR they'd be allowed up to 175-square feet to do so.

8
9 Commissioner Alcheck: Ok so here's the question in the exact same scenario where I have 850-
10 square feet. We... the code doesn't count a covered parking space as the ADU? You have...
11 unfortunately, I don't have it in... I don't have the exact section here but we were talking about
12 the idea of converting part of a garage into an ADU and the section that you don't convert so
13 the section that remains covered parking isn't counted. So, you could theoretically take a 400-
14 square foot garage, split it into and then add 700-square feet to the side of it. So, you take the
15 200-square feet from half that 400-square foot garage, add 700 and you have 900-square ADU
16 which is technically attached to 200-square feet of covered parking. So, you would in effect
17 have an 1,100-square foot building of which 200-square feet are covered parking and 900 is an
18 ADU. That's the way the ordinance is written. That we don't count the covered space to the
19 ADU.

20

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1 Mr. Lait: In the RE district only.

2

3 Commissioner Alcheck: Why in the RE district only?

4

5 Mr. Lait: That's an old provision of the... That was a carryover from our existing code. Is the
6 200-square foot reference that you're talking about that precise number in the ordinance? Is
7 that what you're referring too?

8

9 Commissioner Alcheck: No, it just says that if you... no. It just said that if you were going to use
10 a portion of the garage we wouldn't count the whole... If you've built a new structure that
11 houses a car and also served as an ADU... What section are you reading from just so I can look
12 at it?

13

14 Mr. Yang: 9B.

15

16 Commissioner Alcheck: Sorry, 9... Ok, 9B. So, the accessory dwelling unit and any covered
17 parking shall be included in a total floor area but the covered parking area is not included
18 within the maximum 900-square feet. So, you could theoretically build a detached building
19 that's 1,100-square feet and accommodate one car and have 900-square feet of ADU. So, here's
20 my question, in the previous example I told you of a home that had 2,150. You might want to

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1 write it down and the maximum FAR was 3,000 so the total FAR left was 850. If someone wants
2 to build a 900-square foot ADU and also or let's say an 850-square foot ADU and a 200-square
3 foot car space. Could they receive the entire 175? The maximum ADU would allow them a 50-
4 square foot increase over what they're allowed but if they wanted to add the parking which
5 would increase their existing number from 2,150 to 2,350, would be allow them the full 175? I
6 ask that because I want to make sure that if someone wanted to do that, they didn't have to do
7 it in two-step processes. So, can someone realize the entire 175 if their building 900-square feet
8 in conjunction with some portion of covered parking? I say that because I want to encourage
9 people to actually build some covered parking and so if they're going... this doesn't have to be
10 900. This could be a 500-square foot ADU next to a 200-square foot parking space. If they want
11 to get to 175 are they allowed to do that anyway or only if they (interrupted)

12

13 Mr. Lait: So yeah, they would be eligible for the 175.

14

15 AMENDMENT #4

16

17 Commissioner Alcheck: Ok then I don't have a change for this particular... for that element. I
18 would say that my only concern about the lost bonus coverage is that the majority of
19 individuals who have maxed out their FAR or have come close to it are people who likely built in
20 the last 10 or 15-years. Most of the homes that were built in the 70's and 80's and 50's and 60's

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1 didn't really approach these FAR because our FARs increased over time. So, if they are beyond
2 900-square feet are they eligible and they wouldn't be unless they did a whole project. I guess
3 my question would be would the Commission accept a premise where we didn't set the date as
4 of 2017. We set is as of 2019 so as there are people who have protentionally been in process
5 now for 4-years. They may have started their project long before the ADU Ordinance came up
6 and now they may be in construction now but their plans never accommodated or considered
7 this idea. And so, can we do it in such a way that we don't want to just give people bonuses and
8 have them work around and everybody gets 175-feet but I think there are some people within
9 this area that are uncaptured. I will just for the purposes of disclosures suggest to you that I
10 built a house that was completed after 2017. I have absolutely no intention of building an ADU
11 and frankly, I don't have any FAR to spare but the point that I would like to suggest is that there
12 may be some people who are in process or completed a year ago that might be interested in it.
13 And I think should provide a date that is future so I would suggest an amendment of the
14 language that would change the date to legally permitted an existing as of January 1, 2019, or
15 even 2020 because presumably, all the projects in the pipeline didn't really appreciate this ADU
16 option prior to that date.

17

18 Chair Lauing: So as the maker I feel like this is one of those sorts of potential corner cases that's
19 not necessarily sublativ or not necessarily having any data. So, it seems to me like that's a
20 future issue when more data is available to suggest that that's a problem. I don't know

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1 [unintelligible] right or wrong but we don't have any data to suggest that so I'd stay with the
2 Staff memo on that.

3

4 Vice-Chair Monk: Well can Staff speak to why they put the date in and (interrupted)

5

6 Mr. Lait: The date reflects when the state law became into effect. It's referenced in other areas
7 of the code, that's why we chose it.

8

9 Vice-Chair Monk: And do you think it would make your approval process easier or more
10 definitive if we accepted Commissioner Alcheck's suggestion?

11

12 Mr. Lait: We're comfortable with the January 1, 2017 date.

13

14 Vice-Chair Monk: Thank you.

15

16 Chair Lauing: Did you have any other comments?

17

18 Commissioner Alcheck: I mean if nobody wants to second that then presumably it's moot.

19

20 Chair Lauing: Ok anyone else that has any comments on Number Three?

-
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Vice-Chair Monk: I would second it but the maker indicated that he's not going to accept it.

Commissioner Alcheck: No, no, I'm saying if no one seconds it then look (interrupted)

[Note- multiple people started talking at once]

Commissioner Alcheck: I'm only raising this because there are some people out there who might have been captured by this date.

Mr. Lait: Right so (interrupted)

Vice-Chair Monk: We appreciate your sentiment but I don't think the maker of the motion [unintelligible]

Mr. Lait: So, is there a second? There's a motion being made to change the date so is there a second?

SECOND

-
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1 Vice-Chair Monk: I'll second the motion.

2

3 Commissioner Alcheck: So, it can fail. Don't get me wrong it can fail, I just... it's just a
4 consideration.

5

6 Chair Lauing: Right so that's right so than any other discussion on that or we have to vote on
7 the amendment. On this issue of discussion amendment? Ok great. Commissioner Summa.

8

9 Commissioner Summa: I can't support that because I really struggle with this one at all but I
10 respect the fact that City Council wanted to add it because of its arbitrariness. It just feels
11 arbitrary to me and I think changing the date to not coincide with when the law became was
12 enacted doesn't make much sense to me. There are a thousand other things that we could
13 imagine might bother people when laws change but when laws change is the date laws change
14 so I just can't support it for that reason.

15

16 Chair Lauing: Commissioner Waldfogel, was your light on?

17

18 Commissioner Waldfogel: Yeah thanks. I would support changing it to legally permitted as of
19 January 1, 2017, so that way somebody who would have actually gone through design process

-
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1 before this was contemplated would be eligible but after that cut off they certainly had the
2 ability to go and modify their permit after this became (interrupted)

3
4 Commissioner Alcheck: Yeah so actually that suggestion is presumably if it was legally permitted
5 prior to 2017 then it could... yeah, I would... what I'm trying to do is not... we have very
6 infrequently do we create a retroactive policy or law where we suggest something that we
7 passed today would apply to something in the past. And our ADU Ordinance was backward
8 looking so I would accept that premise that if the project was permitted prior to January 1,
9 2017, but not necessarily (interrupted)

10

11 Vice-Chair Monk: As the seconder I accept it.

12

13 Commissioner Alcheck: Existing.

14

15 Chair Lauing: So, let (interrupted)

16

17 Commissioner Waldfogel: Could that be illegal? Comprehensible.

18

19 Mr. Yang: [Off mic].

20

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1 Chair Lauing: We can vote on this amendment so sorry what was the question?

2

3 Commissioner Waldfogel: [unintelligible -off mic] Staff if that's something that they could work
4 with.

5

6 Mr. Lait: You're saying legally permitted or existing as of January (interrupted)

7

8 Commissioner Alcheck: No, we would be striking language existing.

9

10 Commissioner Waldfogel: So, in other words, if the permit was pulled by January 1.

11

12 Mr. Lait: So, strike the word existing?

13

14 Commissioner Waldfogel: Yeah but is that something that you could work with? I mean would
15 that be workable if we just said if the permit was pulled Jan. 1, 2017 because that's somebody
16 who's trapped in the... you know who fully went through the process before they knew about
17 these new ideas.

18

19 Mr. Lait: Yeah that's fine.

20

-
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1 Commissioner Alcheck: Thank you for that suggestion. That bettered captured what I was trying
2 (interrupted)

3

4 VOTE

5

6 Chair Lauing: Ok all in favor of that amendment to change that to as permitted by January 1st,
7 raise your hand? And opposed? That passes.

8

9 AMENDMENT #4 PASSED (4-2, Commissioners Lauing and Summa opposed with Commissioner
10 Riggs absent)

11

12 Chair Lauing: Moving onto the second slide, please.

13

14 Mr. Lait: So ok yeah are we done with that? Great. So, this is the one I thought we were on
15 which is just exempting ADUs from the 50 percent rear yard coverage.

16

17 Chair Lauing: Mr. [note-Commissioner] Gardias.

18

19 Commissioner Gardias: Thank you. Thank you. So, we had a discussion about this and I'd like to
20 bring it back. The discussion was back then does ADU placement... Does ADU count toward rear

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1 yard coverage 50 percent which is different so I don't... I totally agree with the premise of this
2 amendment but what I'm saying is that there needs to be a clarification on the rear yard
3 coverage. And I'm suggesting that there's a language that's added that clarifies that ADUs or
4 placement of ADUs count toward rear yard coverage 50 percent coverage.

5

6 Chair Lauing: Right are you disagreeing with what's there?

7

8 Commissioner Gardias: No, I'm not disagreeing. This is the language that I agree with this. What
9 I'm saying is that there is another missing piece of this is pretty much that today you have
10 another ratio that talks about 50 percent of the rear yard coverage. That's what in the existing
11 code. What I'm saying is that pretty much if you build ADU in the rear yard that ADU would
12 count toward that 50 percent rear yard coverage and those are some architectural items like
13 pergolas or some other... I believe benches are some other elements that are being constructed
14 within the rear yard.

15

16 Chair Lauing: Can we get a comment from Staff on that? I thought that was definitely excluded.

17 Mr. Lait: I'm sorry I guess I don't... We do have the provision that it does address accessory
18 structure, pergolas and things of that nature but I guess what we're talking about here is ADUs
19 and exempting ADUs from the 50 percent lot coverage. So, and I thought I heard that there was
20 no objection to that and if that's correct then I think this is an after nine discussion items.

-
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Chair Lauing: I thought he was saying there was a missing piece that had to go in there but it seemed to me like this was clear relative to the ADU 50 percent so. If there's nothing (interrupted)

Commissioner Gardias: So again, I'm not opposing language but the same discussion like we had in regards to the other items that were triggering some other concerns.

Chair Lauing: Ok.

Mr. Lait: So, to that point, I think what the Chair said when we return from break was we'll take those up after Item Number Nine.

Commissioner Gardias: That's fine with me as well.

Chair Lauing: Ok great.

Commissioner Gardias: So, in this case, I agree with four.

-
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1 Chair Lauing: Other comments on Number Four? Anybody else? No? Can we move onto Five?
2 Let's go onto Five, reduce height limit for attached ADUs located within identified Eichler tracts,
3 Pages 23 and 4 [note – 24]. Commissioner Summa.

4

5 Commissioner Summa: Oh, did you call me?

6

7 Chair Lauing: Yes.

8

9 Commissioner Summa: I'm sorry. So, I already stated this earlier and I think that Staff has
10 identified a good problem here and that is that Eichler's tend to be one-story on slab and about
11 12-feet high and that we shouldn't have attached ADUs or other ADU... or detached that are
12 too tall compared to those types of structures. And I would... If there's support I would suggest
13 that there are a structure with that profile in a lot of different neighborhoods in Palo Alto that
14 are not Eichlers where it would be appropriate to apply the same height standards that Staff
15 has identified.

16

17 Mr. Lait: So, if I may Chair just and Commissioner Summa, in response to what we were going to
18 do when we came back from the break is we're going to focus specifically on the Eichler change
19 to the height limit. And if you want to now extend a lower height limit to other areas of the City
20 that would be after our discussion of the nine items. Ok so specifically with respect to the Staff

-
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1 recommendation to address the Eichler tracts with a set height limit when it's detached or no
2 higher than the point of connection to the residences if it's attached. If there's no issue with
3 that or if you have an issue with at I guess that's what we'd want to hear about.

4

5 Chair Lauing: Let's see, ok Commissioner Waldfogel, the point of clarification.

6

7 Commissioner Waldfogel: Just a I should know this but is there an adopted Palo Alto Eichler
8 Neighborhood Design Guideline? Is that an adopted document?

9

10 Mr. Lait: Yeah that's great. Yes, so not yet but it is scheduled to go to the City Council on April
11 2nd and so we are anticipating that the Council will adopt it. Obviously, if they don't we're going
12 to have to make some fine tuning to this language but we feel like we've got some time
13 between now and then.

14

15 Commissioner Waldfogel: That's ok so I'm not missing something [unintelligible](interrupted)

16

17 Mr. Lait: No, you're not missing something.

18

19 Commissioner Waldfogel: Thank you.

20

-
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1 Chair Lauing: Commissioner Gardias was your light on for Number Five here?

2

3 Commissioner Gardias: No. So, I'm withdrawing my light. This was in regards to the height limit
4 but not related to the Eichler's.

5

6 Chair Lauing: Commissioner [Note- Vice-Chair] Monk.

7

8 Vice-Chair Monk: In the Staff report the grounds for implementing the height restriction was
9 based on one community meeting. Can you tell us a little bit more about that meeting? How
10 many were in attendance?

11

12 Mr. Lait: You know I don't think it was just one community meeting. There's been a whole
13 process underway for establishing the Eichler Design Guidelines and the Staff report for that is
14 available online at the City Council agenda page for April 2. We've received a lot of community
15 input through various outreach efforts. There was the community meeting and there was an
16 interest related to privacy and maintaining that sort of neighborhood character where Eichlers
17 are constructed. And so, the concern was a 17-foot height ADU not being consistent with that
18 character and so that was throughout this I would say nine or twelve-month process of trying to
19 develop these Eichler guidelines.

20

-
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1 Vice-Chair Monk: So, as it's written or as the ordinance was previously drafted does it conflict
2 with the Eichler Design Guidelines or was it not anticipated because we didn't have the ADU
3 Ordinance?

4
5 Mr. Lait: Well the Eichler guidelines aren't... they were created after the ADU regulations came
6 into place. I mean that direction to initiate the Eichler guidelines was right around the time but
7 the point is I guess (interrupted)

8
9 Chair Lauing: From Council correct?

10
11 Mr. Lait: Well yeah and this in response. I mean this Commission has heard public hearings on
12 single-story overlays and the SSOs and the Eichler guidelines are somewhat related in their
13 genesis so we're just in the process of wrapping that up. And one of the things that we heard
14 was gosh since we've started this process the ADU regulations have allowed these 17-foot
15 detached structures. We don't think that's consistent or compatible with these types of
16 neighborhoods and so there's I think a reference in the guidelines about ADUs and how height
17 should be reduced or consistent with the height of the principal residence or no taller than I
18 think 12-feet or 13-feet or something like that. So, our ordinance reflects the intent of that
19 interested from that outreach effort.

20

-
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1 Vice-Chair Monk: I think it'd be nice to hear from the community on this directly in that my
2 understanding is that the current height restriction for attached ADUs is 17-feet correct? And
3 this would limit to the height of the existing structure if we were to implement Staff's
4 suggestions correct?

5

6 Mr. Lait: Well so yeah ADUs can be 17-feet tall.

7

8 Vice-Chair Monk: Right and so currently if... so I guess I just want to clarify that currently as
9 prior to this ordinance going into effect if goes up to 17-feet for attached ADUs correct?

10

11 Mr. Lait: Yes.

12

13 Vice-Chair Monk: So, I... My position on that is that I would allow for some [unintelligible]. It
14 doesn't need to go that much higher than the existing structure but I would think some
15 flexibility with height would be fine as long as it keeps with the style of the Eichler.

16

17 Mr. Lait: So, the challenge that we have with that is ADUs can't be... these are by right approval
18 so if we start getting into that kind of an evaluation you know that's in part some discretion.
19 And we don't really have a standard for how we evaluate that so what we need is a real sort of
20 clear standard on it.

-
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Vice-Chair Monk: I'll defer for now.

Chair Lauing: Commissioner Alcheck.

Commissioner Alcheck: So, let me ask a couple question before I suggest how strongly I don't like this part. Under the Eichler Design Guidelines if someone were to build a replacement structure for an existing Eichler that was 10-feet tall. Could they build a 17-foot home that complied with the design guidelines?

Mr. Lait: I'm sorry I'd have to get back to you on that.

Commissioner Alcheck: So, I'm familiar enough with the single-story overlay to know that currently in the Eichler tracts where the single-story overlay exists homes are allowed to be built 17-feet. You can essentially build a very stylized Eichler looking home that also complies with our maximum height limit with 17. The way I understand the Eichler Design Guidelines which is a little troublesome because they are not final yet so we don't exactly know and Staff can't speak to them is that there wasn't a further restriction of height beyond the single-story overlay.

-
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1 Mr. Lait: Can I speak to two points?

2

3 Commissioner Alcheck: Yeah.

4

5 Mr. Lait: So, one the reference to the Eichler guidelines is strictly for the Eichler tracts. The
6 locational boundary of where the reduced height would apply.

7

8 Commissioner Alcheck: Right.

9

10 Mr. Lait: Second the recommendation to City Council and again we'll see where the Council
11 goes with this is that these be accepted as a volunteer sort of optional process.

12

13 Commissioner Alcheck: Presumably a community could adopt it with some percentage?

14

15 Mr. Lait: No that would be different but again, I mean (interrupted)

16

17 Commissioner Alcheck: Hold on a second.

18

19 Mr. Lait: That are available to (interrupted)

20

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1 Commissioner Alcheck: Let me understand that real quickly.

2

3 Mr. Lait: These guidelines are just... We're presenting them to the Council on the 2nd. They're
4 going to tell us how far they want us to go with this. Right now, we're just suggesting we've
5 done this, we want this to be a tool that people can use to help build these things but they're
6 not a mandatory set of regulations at this point.

7

8 Commissioner Alcheck: Yeah, I know. Look I really appreciate that but I think that... here's how I
9 feel about what you just said. We went through the Eichler Design process principally because
10 the single-story overlay process was deemed too restrictive. And the response to the single-
11 story overlay was look, it's not that we don't... What we want is a set of guidelines not a
12 defector rule and so I kind of feel like what you're suggesting is that the Eichler Design
13 Guidelines I distinctly remember us in a single-story overlay discussion dealing with a
14 community whose support was not quite at the threshold which was quite high and suggesting
15 we think it would be better if they developed guidelines and applied them. I believe that it's
16 entirely possible that while the recommendation is that these be optional, that there probably
17 may be a push for the community to have them apply in the way the single-story overlay did
18 and communities with specific boundaries might be able to propose that they get adopted. And
19 thus, it wouldn't be optional for your neighbor, it would be required. So, I guess what I'm trying
20 to say to you is I'm uncomfortable with the notion that we would allow a structure in this...

-
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1 where these design guidelines are applicable to rise 17-feet but we wouldn't allow the ADU to
2 do that where we would allow it everywhere else in the City. So, I get it, they're optional but
3 there could be homes there that are currently 17-feet and presumably... And 17-feet is sort of
4 the wrong number here because it's so high. The point I'm trying to make is it's entirely
5 possible that when these homes get redeveloped and I think a lot of them will get redeveloped
6 in the next 10-years, they'll be developed to a standard that's higher because the general
7 development standards now encourage taller buildings. And to the extent that they are
8 compliant with the Eichler Design Guidelines or if they opt to be why would we create a lower
9 requirement?

10

11 The second question for clarification that I'd like to have here is do you believe this only applies
12 to attached ADUs in the Eichler district or would it apply to a detached?

13

14 Mr. Lait: An attached ADU would not be taller than the height of the structure where it joins
15 that structure.

16

17 Commissioner Alcheck: Right.

18

19 Mr. Lait: And a detached would be limited to the... whatever it was, the 12 or 13-feet.

20

-
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1 Commissioner Alcheck: Where is the 12-foot limitation written?

2

3 Mr. Lait: Under detached ADUs.

4

5 Commissioner Alcheck: So, I think this is a classic situation where you might have a homeowner
6 who has the funds ready to develop (interrupted)

7

8 Mr. Lait: I mean I'm just wondering (interrupted) (crosstalk)

9

10 Commissioner Alcheck: I'm just going to support me (interrupted)

11

12 Mr. Lait: I'm just hearing that you... I mean it sounds like you're getting a motion where you
13 would recommend just striking that provisions.

14

15 Commissioner Alcheck: I would suggest to you that we allow the... There's a flaw in the logic
16 that simple because the home is 12-foot tall that a new development everywhere else in the
17 community including in the Eichler Community we would allow at 17-foot.

18 Chair Lauing: So, what would be your amendment I think is what (interrupted)

19

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1 Commissioner Alcheck: So, I would suggest two things. The first is with respect to the Page 23
2 where we're talking about or no taller than the primary residence at the area of attachment.
3 That's I'm comfortable if you guys are keeping that mainly because... I mean I don't really like
4 that either but because they might build it 2-feet taller and it might create an interesting scale. I
5 mean it just nothing about that seems architecturally relevant. And architects might balk at the
6 idea that they can't play with the massing.

7

8 And then specifically with the detached one, I think the detached scenario... remind me again
9 what page that would be on? 24, right? So that would be or one-story and 12-feet is located in
10 an Eichler tract. Particularly there is in the Eichler tract you can build an access of 12-feet then I
11 don't think we should make a requirement that your ADU not be 12-feet simply because
12 "privacy concerns". Those privacy concerns exist everywhere in the community. So, it seems to
13 me quite (interrupted)

14

15 Mr. Lait: So, Commissioner we just need a motion.

16

17 Commissioner Alcheck: So, the motion is to strike the language of 12-feet and actually remove
18 this notion that Eichler... the neighborhood design principally based off your recommendations
19 these are optional anyway. So (interrupted)

20

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1 Mr. Lait: There's a motion to strike 9, excuse me, to strike yeah 9C. (crosstalk) [unintelligible]

2

3 Commissioner Alcheck: 9, no. It's a strike to under... to strike everything after (interrupted)

4

5 Mr. Lait: The added text under 9C.

6

7 Commissioner Alcheck: Well let me ask you this question. Are there tracts that the Eichler

8 Design Guidelines apply to that are not in the single-story overlay?

9

10 Mr. Lait: Yes.

11

12 Commissioner Alcheck: So, then I think one-story... well one-story is applicable because

13 according to you (interrupted)

14

15 Mr. Lait: So, we only allow one-story (interrupted)

16

17 Commissioner Alcheck: One-story everywhere.

18

19 Mr. Lait: Right.

20

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1 Commissioner Alcheck: So, I would suggest that you probably just need one-story and the code
2 relevant height.

3

4 Mr. Lait: Ok so ADUs are already allowed to be one-story and 12-feet... 17-feet. The proposed
5 change which you're making a motion to strike is the restriction that in these Eichler tracts that
6 it be a different height and so (interrupted)

7

8 Commissioner Alcheck: What I would suggest is instead of 17-feet you replace it with what's
9 permitted for the main residence.

10

11 Mr. Lait: So that's (interrupted)

12

13 Commissioner Alcheck: So, if you end up changing the main resident requirement in the Eichler
14 community to 15-feet, then the ADU can be 15-feet but by saying 17 you're tying it to... I'm
15 saying instead of one-story and (interrupted)

16

17 Mr. Lait: But could we just focus on the Eichler tract part.

18

19 AMENDMENT #5

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1 Commissioner Alcheck: Yeah fine, I would recommend striking the notion that you would
2 restrict the height of an ADU further than you already do in the Eichler tract both for attached
3 and for detached.

4
5 Mr. Lait: Ok so the motion then is for to strike the added text under 8C, excuse me, 8D on
6 Packet Page 23 and to strike the added text for 9C on Packet Page 24. And I guess the question
7 is, is there a second? Ok so if we don't have a second then we move onto (interrupted)

8
9 SECOND

10
11 Vice-Chair Monk: I'll second it.

12
13 Mr. Lait: So then if there's any debate.

14
15 Commissioner Alcheck: Well would you even accept it?

16
17 Chair Lauing: Right. Do you want to speak to it?

18
19 Commissioner Alcheck: Would you even accept that?

20

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1 Mr. Lait: No.

2

3 Chair Lauing: She already seconded it so you (interrupted)

4

5 Mr. Lait: Vice-Chair has accepted your motion.

6

7 Commissioner Alcheck: No, I know but if the Chair accepts it (interrupted)

8

9 Mr. Lait: He has not.

10

11 Commissioner Alcheck: Oh, he didn't? Oh ok.

12

13 Chair Lauing: No so go ahead. Did you want to speak to it or no?

14

15 Vice-Chair Monk: I think it spoke to it sufficiently.

16

17 Chair Lauing: Any other comment on it?

18

19 Commissioner Waldfogel: [unintelligible – off mic]

20

-
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1 Chair Lauing: Question from Commissioner Waldfogel.

2

3 Commissioner Waldfogel: Since I don't think I've seen these Palo Alto Eichler Neighborhood
4 Design Guidelines yet. Do they speak to any of these issues of height limits?

5

6 Mr. Lait: Yeah, I mean yes, I would say that they do.

7

8 Commissioner Waldfogel: I'm looking for... I'm actually not looking for deep dive on that.

9

10 Mr. Lait: Yes.

11

12 Commissioner Waldfogel: So, the question is in the spirit of what Commissioner Alcheck
13 proposed, I mean can we just delegate the standards to the Design Guidelines or do we need to
14 provide a definitive alternate height?

15

16 Chair Lauing: So, what would the action be under your suggestion Commissioner Waldfogel?

17

18 Vice-Chair Monk: So, we just say that we make it consistent with the Design Guidelines?

19

-
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1 Mr. Lait: So again, I'm a little uncomfortable with that because the only reason we mentioned
2 the Design Guidelines is because we're trying to identify what the Eichler tracts are. That's the
3 sole purpose for referencing the design guidelines and while ADUs are mentioned I don't see
4 any specific height reference to that. I will note that the Historic Resources Board has reviewed
5 the guidelines and had this conversation about ADUs and they support the recommendation
6 that included in this report. That... but again, so we (interrupted)

7

8 Commissioner Waldfogel: But I guess the point is those are non-binding (interrupted)

9

10 Mr. Lait: That's right.

11

12 Commissioner Waldfogel: Those guidelines.

13

14 Mr. Lait: That's right and so again our only reference it to identify what the Eichler tracts are
15 and so what we've heard for this community process is that there's an interest to lower the
16 height in these areas and either you support that or you don't.

17

18 Commissioner Alcheck: If it's an option... Can I ask a question? If it's an optional choice,
19 someone wanted to build a 15-foot ADU but they were in an Eichler tract and they just say ok
20 well I'm not going to opt into the Eichler Design Guidelines so I can build my 15-foot tall ADU.

-
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1 Are you saying that would be possible so this in effect would literally apply to nobody if they
2 didn't want it too?

3

4 Mr. Lait: No. Again, I want to be very clear. In the ordinance that's before you where we
5 reference (interrupted)

6

7 Commissioner Alcheck: Are you making something non-optional?

8

9 Mr. Lait: Where we reference the Eichler Design Guidelines it is a reference to the Eichler tracts
10 that are identified in that document and there are some 31 tracts. So rather than use this
11 ordinance to list the 31 different neighborhood tracts, we're just referencing this document.
12 That is the only significant [unintelligible] (crosstalk).

13

14 Commissioner Alcheck: But those Design Guidelines are optional for every parcel in the tract?

15

16 Mr. Lait: The guidelines are draft and will be reviewed by the City Council on April 2. I don't
17 know what the Council is going to do with it.

18

19 Commissioner Alcheck: But as proposed.

20

-
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1 Mr. Lait: As proposed its a (interrupted)

2

3 Commissioner Alcheck: Parcel by parcel option?

4

5 Mr. Lait: As proposed they are draft... they are recommended guidelines. They are not
6 mandatory.

7

8 Commissioner Alcheck: So, in theory, this... the homeowner would have to opt-in for this?

9

10 Mr. Lait: So, I'm sorry, Chair I'm just feeling a little uncomfortable because Commissioner
11 Waldfogel has the floor and I'm trying to answer the questions that you have.

12

13 Commissioner Waldfogel: So, let me just finish. So, my comment on this then is that I think this
14 may need more work downstream but for tonight I would support the Staff proposal.

15

16 Chair Lauing: Ok anyone that hasn't spoken yet on this issue? No? Alright, let's put that to a
17 vote then.

18

19 Chair Lauing: So those in favor of changing it as suggested?

20

-
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1 Commissioner Alcheck: Do you mind if I ask a few more questions?

2

3 Chair Lauing: I do. Yeah because we've discussed it back and forth and we have everybody
4 discuss it.

5

6 Commissioner Alcheck: [unintelligible -off mic] want to call the question then you're entitled to
7 do that but [unintelligible].

8

9 MOTION TO CALL THE QUESTION

10

11 Chair Lauing: I'm happy to call the question because I think we're trying to get through this with
12 dispatch and you know the number of people who have spoken on it.

13

14 Commissioner Alcheck: [unintelligible – off mic]

15

16 Chair Lauing: Yep so Albert?

17

18 Vice-Chair Monk: So, the seconder I do have a comment on it because I think we really
19 simplified it by (interrupted)

20

-
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1 Mr. Lait: Well I'm sorry to hear [note- several people talking at once]

2

3 Chair Lauing: So, Albert would you please address that. We need a second and two thirds,
4 right?

5

6 Mr. Yang: That's correct.

7

8 Chair Lauing: And so tonight with six people that's what?

9

10 Mr. Yang: Four.

11

12 Chair Lauing: And there's no debate on that correct?

13

14 Mr. Yang: If it's seconded then there's no debate on it.

15

16 Chair Lauing: Is it seconded by someone?

17

18 SECOND

19

20 Commissioner Gardias: Second.

-
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VOTE

Chair Lauing: Commissioner Gardias, ok. So, calling the question which means we're going to vote on this amendment and then move onto the next item. All in favor of that? For?

Mr. Lait: Ok so voting for the amendment?

Chair Lauing: (crosstalk) to call the question. Right, so it's 4-2.

MOTION PASSED TO CALL THE QUESTION (4-2 Commissioner Alcheck and Vice-Chair Monk oppose with Commissioner Riggs absent)

VOTE

Chair Lauing: Alright so now we're going to vote on that. So, the vote... do you want to reread for clarity?

Mr. Lait: So yeah what you're voting on again is on page... Packet Page 23, Section 8D striking all the added texted and on Packet Page 24 9C striking all of the added texted.

-
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Chair Lauing: Ok that's clear. So, all in favor of that amendment to the main motion please raise your hand? One, two and opposed? Four.

AMENDMENT #5 FAILED (4-2 Chair Lauing and Commissioners Gardias, Waldfogel, and Summa oppose with Commissioner Riggs absent)

Chair Lauing: Alright so now we're onto Item Number Six. Anyone have (interrupted)

Vice-Chair Monk: Can I just speak to that motion?

Chair Lauing: Number Six? Yeah.

Vice-Chair Monk: No on the one that we just voted one. Just a quick comment in that (interrupted)

Chair Lauing: Sure.

-
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1 Vice-Chair Monk: I think just removing the language didn't fully address it because I don't think
2 we should be going to 17-feet anyways so I wasn't trying to advocate for that. Right, so I just
3 want to make a record of that. Thanks.

4

5 Mr. Lait: So next discussion is on Packet Page 22, Six romanette II.

6

7 Chair Lauing: So, folks that want to ask questions or object to that one. I think Commissioners
8 Summa is your light on? Ok. Commissioner Gardias.

9

10 Vice-Chair Monk: [unintelligible -off mic]

11

12 Chair Lauing: Yes, only if you have a problem with it.

13

14 Commissioner Gardias: Just a moment.

15

16 Chair Lauing: Shall I move on?

17

18 Commissioner Gardias: If somebody wants to go ahead let them go ahead.

19

20 Chair Lauing: Commissioner Alcheck is your light on for that one?

-
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Commissioner Alcheck: Just a second.

Commissioner Gardias: So, I can continue I got to the point right.

Chair Lauing: Commissioner Gardias.

Commissioner Gardias: So, I'd like to just ask about clarification. So, we're talking of course about those rebuilding the structure that are not compliant with the applicable development. Right which is point two... Paragraph 2A on Page 22 of the Packet right?

Mr. Lait: So, we're talking about the conversion of an existing accessory structure so this is a detached accessory structure that is being converted into an ADU. And in the process of converting it into an ADU it's to meet the technical building codes it's essentially a rebuild. And a rebuild in our code would be subject to meeting the required setbacks and so what we're saying is it can be rebuilt in its present location subject to these criteria.

Commissioner Gardias: Right and then the question I had to you is those structures that we are converting are permitted structures or they are not permitted structures?

-
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1 Mr. Lait: Permitted.

2

3 Commissioner Gardias: Those are permitted code... Those are planned department permitted
4 structures so they comply with the planning... with the zone requirements.

5

6 Mr. Lait: If you look at romanette Number I, it says for the... you know it talks about the
7 conversion of these accessory structures subject to the conversion shall be legally permitted if
8 they were... if the structure subject to conversion was legally permitted and existing as of
9 January 1.

10

11 Commissioner Gardias: Ok that's what I wanted to understand because there was also a talk
12 about amnesty for those that were not compliant but it's a separate point, ok. I'm good then,
13 thank you.

14

15 Chair Lauing: Commissioner Waldfogel.

16

17 Commissioner Waldfogel: Just a clarification. So, let's say I have a garage that's 40-years old
18 that I'm converting into an ADU. Do I need... So, I take it I can maintain the footprint but what
19 building standards do I have to meet? What building codes do I have to meet when I do that? I
20 mean do I need to meet current seismic standards for example?

-
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1 Mr. Lait: Yeah current standards.

2

3 Commissioner Waldfogel: Then I'm cool.

4

5 Chair Lauing: Commissioner Alcheck.

6

7 Commissioner Alcheck: Ok let's say a classical example detached garage that's on the property
8 line. Can that be converted?

9

10 Mr. Lait: Yes, that can be converted but our requirements here would say that you have to push
11 that at least 3-feet away from the property line.

12

13 Commissioner Alcheck: Ok so it couldn't be converted, it had to be rebuilt?

14

15 Mr. Lait: It could be converted if it didn't... So, the answer is yes it can be converted. If in the
16 process of converting it the Building Department says whoa you got your foundations not
17 working and these walls... it's not going to work, you have to rebuild this structure. We would
18 say then pursuant to I think it's B, romanette II B, that if you in that situation if you have to
19 rebuild the structure, we're saying at a minimum you've got to move this thing back 3-feet from

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1 the property line to give a little bit of space there between the accessory structure and the
2 property line.

3

4 Commissioner Alcheck: So, let me just understand this right. If there a percentage of an
5 existing... because here's why I'm asking.

6

7 Mr. Lait: It would be the Building Officials determination.

8

9 Commissioner Alcheck: So, a rebuilt wall would be a Building Officials determination?

10

11 Mr. Lait: Yeah.

12

13 Commissioner Alcheck: Is there an inspection that happens before?

14

15 Mr. Lait: In the course of... So, the Building Official gets to make the determination as to
16 whether or not the proposed project and usually the architects know this when their coming in
17 whether it needs to be rebuilt or not in order to meet code. I know you can't... most garages
18 don't... I don't want to speculate how many but we've in our conversations we're finding out
19 that a lot of garages were built on slab with not a whole lot of foundation consideration. And
20 so, if you're going to have an ADU there we want this to meet health safety standards for an

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1 ADU which as required by state law and of course is our local ordinances. And so that may
2 require a new foundation and your walls probably need to be rebuilt and the whole structural
3 system would need to be rebuilt.

4

5 Commissioner Alcheck: I got it. I think I understand what you're saying. What I'm trying to
6 understand is right now the rules are if you built something new you're 6-feet away from the
7 fence. So, the question that I'm really trying to understand is if I have a garage that's on the
8 fence and I need to rebuild it and that includes a new foundation I can do it 3-feet from the
9 fence?

10

11 Mr. Lait: That's right.

12

13 Commissioner Alcheck: I would suggest that if the structure can be converted without raising
14 the roof and increasing the encroachment and without replacing any walls then it can be
15 converted because the code provides it. But if you have rebuild foundation and rebuild the
16 structure why would we allow you to do that in a place where we wouldn't allow anybody else
17 to build it? Simple because you had something that was literally non-complying with our
18 current code but grandfathered in because it was allowable at a time a long time ago.

19

-
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1 Mr. Lait: Ok I want to specify it. There's a correction that needs to be made on that point. So,
2 the accessory structure itself would have been permitted.

3

4 Commissioner Alcheck: Today?

5

6 Mr. Lait: No so at the time it got constructed, yeah you can put a garage on the property line
7 today. So, the ADU hasn't been (interrupted)

8

9 Commissioner Alcheck: Wait a minute.

10

11 Mr. Lait: Converted, yet right?

12

13 Commissioner Alcheck: Hold on can you (interrupted)

14

15 Mr. Lait: So, we're converting an accessory structure that could be located at the property line
16 today and even back then but the ADU has some different requirements. State law provides
17 that you can convert these garages... they are very explicitly. You can convert a garage and
18 that's where they left it but in the act of converting the garage, you need to do a whole lot of
19 work to make that meet life safety codes today. And so, what we're trying to do is strike that

-
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1 balance because the state interest being able to allow somebody to rebuild a garage and not
2 having them comply with the standards.

3

4 Commissioner Alcheck: No, I get it. I know that you came build them presumably... the
5 encroachment requirements would be more strict than most of these are currently. So, I guess
6 my point is that I think what we should do is we should articulate some point after which if you
7 are doing a foundation or a rebuilding more than some percentage of your walls that you be
8 required to comply with... I mean certainly, if you're rebuilding pouring a new foundation then
9 you're literally replacing the structure because you can't pour a foundation underneath a
10 structure. So, I would suggest to you that to me there's a little... I really don't like the idea of
11 somebody being able to build something almost entirely new and only be allowed... and be
12 allowed to do that 3-feet from all these lines that we've spent almost the entire night talking
13 about how we're uncomfortable with 6-feet. And suddenly you can rebuild these structures
14 almost entirely 3-feet. So that would be my amendment is that we require that number
15 (interrupted)

16

17 Mr. Lait: Well so just I mean it completely changes the whole concept behind this provision.

18

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1 Commissioner Alcheck: No actually what I am suggesting is that if you are going to allow
2 someone to rebuild a structure including pouring a new foundation that you require it 6-feet
3 just like you do for all the new.

4

5 Mr. Lait: Yes, so I hear you. What you're saying (interrupted)

6

7 Commissioner Alcheck: If it was recently built compliant then that's one thing.

8

9 Mr. Lait: Well again so the accessory structure at the time that it was built, recently or back in
10 the past, was compliant. State law allows that to be converted into an ADU. That conversion
11 would not comply with our setback requirements that we've established.

12

13 Commissioner Alcheck: Ok hold on. Jonathan, we are talking about whether or not we would
14 require accessory structures that need to rebuilt to comply with our technical building codes.
15 So, we have the power to say you're right, state if it didn't have to be built again (interrupted)

16

17 Mr. Lait: I'm not questioning that.

18

19 Commissioner Alcheck: It can be converted. The question is if we're going to allow you to
20 rebuild it totally can it be 6-feet? To be perfectly honest (interrupted)

-
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1 Mr. Lait: I'm not questioning that Chair or Commissioner.

2

3 Commissioner Alcheck: I think I should be allowed to make that motion.

4

5 Mr. Lait: I don't have a problem with that.

6

7 Commissioner Alcheck: It seems like you don't want me to make the motion.

8

9 Mr. Lait: Please can I just... Yeah, I just want to... I'll let you make the motion but I want to be
10 clear about what it is. That is a rewrite of this section so what your motion is, is not so much
11 just moving it 6-feet from the property line. At that point, it doesn't matter what the height is
12 of the existing structure because now you're out of the setbacks so you can go to 17-feet. What
13 you're saying if philosophically you do not want... if converting the garage to an ADU requires a
14 substantial renovation such that you're rebuilding the foundation, you want that structure to
15 comply with code and that's perfectly fine. That's your motion. What this proposes is that if you
16 have that existing ADU and you have to do this substantial remodel to the point where you're
17 rebuilding the foundation, we're going to give you a break and let you do it at 3-feet but we
18 don't want you to be on the property line. So (interrupted)

19

20 Commissioner Alcheck: I understand what you're saying I'm saying but I'm (interrupted)

-
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Chair Lauing: So, make the motion. [Note- many people started talking at once]

Mr. Lait: [unintelligible] motion I guess is the question.

Commissioner Alcheck: Excuse me, excuse me, what I'm specifically suggesting is that without clarifying what you consider a substantial rebuild you are allowing someone to essentially interrupt this in a way that allows them to rebuild an existing structure in its exact shape, new, 3-feet closer than we would.

Mr. Lait: Yes, we're in agreement. I think just need to have a second on that motion if that's going to go forward.

Chair Lauing: Well I still didn't hear the motion. That sounded like another explanation.

Commissioner Alcheck: So, what I am suggesting is that we need language... It's difficult to make a motion here because what I'm suggesting is we need a little bit more specifics because if we're talking about fixing some minor things on a wall that's one thing but if you're pouring a new foundation then I don't want to stay on the dais and tell you 16 percent. I want Staff to come up with a more specific criterion that helps individuals identify when they can build it 3-

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1 feet from the wall which is essentially a rebuild. I think we need more criteria there. Does
2 anybody (interrupted)

3

4 Chair Lauing: To define substantial renovation?

5

6 Commissioner Alcheck: Yeah, I mean if Staff's interruption is that pouring a new foundation is...
7 would allow you... would still allow you to build within 3-feet. I would suggest that that's too
8 much.

9

10 Vice-Chair Monk: Commissioner Alcheck do you think we could just direct Staff to propose
11 definition or language to Council that they might consider and not make a motion?

12

13 Commissioner Alcheck: That's one option. One option also would let everybody speak to it. I
14 mean yes.

15

16 Chair Lauing: So, I'm still unclear as to what your motion is. Do you want more clarity in the
17 language here?

18

19 Commissioner Alcheck: Ok so let's just be clear here. We're going amendment by amendment
20 and I'm sharing with you my concern and what I'm suggesting is that it's tough to make a

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1 specific motion to an ordinance that you want to move up tonight. I would be more
2 comfortable is if at the next reading of this at the PTC level, assuming that it happens, we have
3 language that more clearly differentiates. For example, we already have code language in our
4 code that says when you do a remodel and you reach a certain percentage you have to comply
5 with certain things. So, it's not like we have to reinvent the wheel and I certainly don't have to
6 be the expert on the dais. The question is are there other Commissioners that feel comfortable
7 with this and would like to see that effort made on Staff's part for this specific item?

8

9 Chair Lauing: So, we'll see if there are other people who have objections to the language that
10 might address that question and I think Commissioner Summa has her light on.

11

12 Commissioner Summa: So, it's a question for Staff I think that you say convert... This is about
13 conversion but then you say require rebuilding or substantial renovation. To me, the term
14 rebuilding is maybe what's problematic because it might give people the... but I guess you're
15 trying... you're just trying... let me ask Staff if the intention was just make it not as so as onerous
16 for people who had what they wanted to convert but they had to basically rebuild it. Is that the
17 intention? And is 3-feet the requirement because of what I consider to be sort of known and
18 discussed problem in the building division that garages on property lines become problems
19 because you can't access for repairs and painting and stuff the back side of your... all the side of
20 your garage? So, it was to address that problem may be.

-
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Mr. Lait: That was the approach, yes.

Commissioner Summa: Well I think (interrupted)

Mr. Lait: And I would add privacy to just to give a little more buffer.

Commissioner Summa: See because I know this is a real problem for garages because when you have to go into your neighbor's yard to do maintenance on your garage while it becomes a potential problem. And I think the Building Department has been trying to deal with this for years I think so I'm fine with it the way it is. I just I do think however you're leaving sort of an area that isn't well defined about the rebuilding or substantial renovation the difference. The point is you're going to let somebody move something altogether but just a little... just a small distance. So, I don't think it has to be... I don't think it will cause problems because people can either convert it by substantially renovating it or moving it a little bit and rebuilding it. So, I think it's ok the way it is.

Chair Lauing: Commissioner Waldfogel.

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1 Commissioner Waldfoegel: So, I understand Commissioner Alcheck's concerns, however since
2 the ordinance does not allow increases in height or size in Roman [note – romanette] II A, I
3 think that a lot of these scenarios are covered so I can support what's in the Staff text.

4

5 Chair Lauing: Commissioner Gardias.

6

7 Commissioner Gardias: I support that too. Thank you.

8

9 Chair Lauing: Yeah, I don't know if it would be helpful to try to talk about rebuilding or
10 substantial renovation. I'm not sure that there's a fine line there so I guess I'm persuaded that
11 we're ok for now as it is.

12

13 Mr. Lait: Maybe can as this goes to Council we can give some thought to adding some
14 definition to what that means but there is no definition presently.

15

16 Commissioner Alcheck: Is there a definition for renovation?

17

18 Mr. Lait: Not in the Zoning Code. We can follow up with the Building Official.

19

20 Chair Lauing: So, you do not want to make a motion?

-
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1 Commissioner Alcheck: It doesn't look like it would pass but it just strikes me as odd that
2 anybody would think that substantially renovate and rebuild are similar. To me rebuild is
3 essentially starting over so that's different than substantially renovate.

4

5 Vice-Chair Monk: Staff just said that they'd advance a proposed definition to Council.

6

7 Commissioner Alcheck: I would encourage a little bit more close reading but no one else likes to
8 do that, that's fine. Let's move on.

9

10 Chair Lauing: Let's move onto the next one which we are now on seven. Are we on the next
11 slide? Are we on the next slide, seven? Replacement parking provisions also apply to JADUs.
12 Anyone have any questions about those? Seeing no lights. Can we move onto Number Eight?
13 Allow replacement parking be located within driveways located in a street side setback, Page
14 26.

15

16 Commissioner Alcheck: Sorry, I'll wait.

17

18 Chair Lauing: That's fine. There weren't any other lights. Go ahead.

19

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1 Commissioner Alcheck: So, Staff I was hoping to get a little bit more understanding about this.
2 When you look at our design guidelines, the Single-Family Design Guidelines, they have a lot of
3 diagrams of what they mean by where you can find parking on your site. So, for example, an
4 uncovered space can occur 10-feet inside of a parcel and within the side yard. So, I guess my
5 question to you is, would you... I would have been more comfortable if there was a diagram
6 that provided a little bit more clarity as to where on the... I guess you would say where in the
7 front yard you anticipate the replacement parking being permitted. So again, you can
8 (interrupted)

9

10 Mr. Lait: On the driveway.

11

12 Commissioner Alcheck: In the existing driveway?

13

14 Mr. Lait: Yes.

15

16 Commissioner Alcheck: So, could replacement parking also be where we currently allow
17 uncovered parking which is on... within the side setback but past 10-feet?

18

19 Mr. Lait: Yes.

20

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1 Commissioner Alcheck: So, if you replace a two-car garage with an ADU. Since our code only
2 requires that you provide one covered parking space do you only have to provide one
3 replacement parking space?

4

5 Mr. Lait: Two parking spaces.

6

7 Commissioner Alcheck: Ok I would propose (interrupted)

8

9 Mr. Lait: Right. I mean if you... I'm assuming your garage is a two-car garage.

10

11 Commissioner Alcheck: Yeah but our code only requires one covered parking space.

12

13 Mr. Lait: Right.

14

15 Commissioner Alcheck: So, if you replace a two-car garage with an ADU do you have to provide
16 two new uncovered parking spaces or can you simply provide one?

17

18 Mr. Lait: Two. I mean unless you have one already on the site and you add another one. I mean
19 the point is you don't get a reduction in the parking but you don't have to have them covered
20 anymore.

-
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1 Chair Lauing: You'd just line up the driveway with cars.

2

3 Commissioner Alcheck: So, I'm just really curious so does this expand the language of
4 permissible locations where you can park a car as considered? Technically parking your car in
5 the first 10-feet of your driveway is not considered a parking space so I'm trying to understand
6 are we creating a new space? That's all I'm trying to understand is how... what (interrupted)

7

8 Mr. Lait: So, the Council already said that you can use the front yard setback to count as
9 replacement parking. That was in the last ordinance. What this change is doing is it recognizes
10 that on corner properties specifically that some of these properties are accessed from the side
11 street and so they have a driveway in the street side yard which may be 16-feet for a setback
12 leading to a garage that is now being converted into an ADU. So, our codes are clear that you
13 can convert it into a... That you can put that replacement parking in the front yard setback, the
14 side yard setback, the rear yard but the street side is not specified. So, this is proposing to make
15 it clear that you can park in a driveway on a street side yard setback.

16

17 Commissioner Alcheck: So, if you already have an existing driveway but it's not on your street
18 side setback.

19

20 Mr. Lait: That's right. You would not be allowed to (interrupted)

-
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1 Commissioner Alcheck: You wouldn't be able to also identify this area as (interrupted)

2

3 Mr. Lait: That's right.

4

5 Commissioner Alcheck: Ok.

6

7 Mr. Lait: It's got to be an existing driveway.

8

9 Chair Lauing: Commissioner Summa.

10

11 Commissioner Summa: I have a question about on Page 26 in B. The new language that's
12 underlined that starts to comply with this requirement uncovered attend spaces blah blah blah
13 and mechanical automobile parking lifts may be located in required side and rear yard setbacks.
14 Does that mean lifts inside a structure? So, an (interrupted)

15

16 Mr. Lait: Not necessarily and I'll say that this is state law.

17

18 Commissioner Summa: This is state law?

19

20 Mr. Lait: Yes.

-
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1 Commissioner Summa: So now we can put (interrupted)

2

3 Mr. Lait: The reason we made this clear or made this change is to make it clear that we can't
4 have a mechanical lift in the front yard setback. That's why... you see the underlying text adding
5 this.

6

7 Commissioner Summa: But state law allows us to have a housed or unhoused mechanical lift in
8 the side setback?

9

10 Mr. Lait: Well it says uncovered parking mechanical... I mean we can get the actual language. I
11 think Albert's pulling it up here.

12

13 Mr. Yang: Yeah state law says that replacement parking can be covered spaces, uncovered
14 spaces, tandem spaces or by use of mechanical parking lifts. That's all it says.

15

16 Commissioner Alcheck: Anywhere?

17

18 Chair Lauing: They can be exposed?

19

20 Mr. Yang: It doesn't specify.

-
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1 Chair Lauing: They can be exposed, they don't have to be inside a structure?

2

3 Commissioner Alcheck: It doesn't specify where so you could restrict them from your rear
4 setback?

5

6 Mr. Yang: [off mic] I'm sorry could you repeat that?

7

8 Commissioner Alcheck: Could you restrict the placement of a mechanical lift (interrupted)

9

10 Commissioner Summa: I think I had the floor.

11

12 Commissioner Alcheck: Sorry.

13

14 Commissioner Summa: Sorry so but that's what I wanted to ask. Can we restrict them from
15 being in the side or rear setback or require that they maintained in a structure?

16

17 Mr. Yang: State law says that replacement space may be located in any configuration on the
18 same lot as the ADU. So, I don't think we have a lot of (interrupted)

19

20 Commissioner Summa: So that... but that applies to lifts also not just spaces?

-
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Mr. Yang: Correct.

Commissioner Summa: Ok if it's state law its state law and then I wanted to ask about ii under that which allows the Director to modify by 1-foot in width or length the parking spot. Is that... if there a reason the 1-foot I mean?

Mr. Lait: Just to give some modification... just to give some dimension to it.

Commissioner Summa: But what if someone needs 18-inches? If we're going to let the Director do it maybe we shouldn't restrict it.

Mr. Lait: Yeah that's fine.

Commissioner Summa: That's it.

Commissioner Alcheck: [unintelligible – off mic]

Commissioner Gardias: Let just do first rounds first and then Commissioner Waldfogel.

-
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1 Commissioner Waldfogel: [off mic] I think my questions have been answered.

2

3 Chair Lauing: Ok, it's been answered. Commissioner Alcheck.

4

5 Commissioner Alcheck: That... Can you read that piece one more time for me about anywhere
6 on the lot?

7

8 Mr. Yang: Ok sorry let me just (interrupted)

9

10 Commissioner Alcheck: The replacement parking can be located (interrupted)

11

12 Mr. Yang: Yeah so when a garage carport or a covered parking structure is demolished in
13 conjunction with the construction of an ADU or converted to an ADU and the local agency
14 requires that those off-street parking spaces be replaced. The replacement spaces may be
15 located in any configuration on the same lot as the ADU including but not limited to as covered
16 spaces, uncovered spaces or tandem spaces or by the use of mechanical lifts.

17

18 Commissioner Alcheck: Ok I get it. I think the relevant language is in any configuration not on
19 the lot as the ADU and the ADU has limitations. It can't be placed on any portion of the lot on
20 any configuration it has limitations that include 6-feet. So, if I think you read that from the

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1 perspective that the replacement car could be located anywhere on the lot... in any
2 configuration on the lot as the ADU (interrupted)

3

4 Mr. Yang: [unintelligible -off mic] Oh sorry. In any configuration on the same lot as the ADU so
5 they are just saying it can't be on the next parcel over.

6

7 Commissioner Alcheck: Oh alright. The notion that someone might put a parking lift that would
8 like go over your fence is kind of shocking so (interrupted)

9

10 Chair Lauing: Where you finished?

11

12 Commissioner Alcheck: I wonder if that's what's intended.

13

14 Commissioner Waldfogel: [off mic] So I do have a question.

15

16 Chair Lauing: I had the same questions that you did as [unintelligible] so go ahead.

17

18 Commissioner Waldfogel: So, can a parking lift then intrude into Day Light Plane? I mean this is
19 so theoretical. You know actually come back to us when you get an application for an outdoor
20 lift because I'd love to have this conversation.

-
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Chair Lauing: That’s right and then feed it to the ARB and see what they have to say.

Commissioner Waldfogel: They won’t have the jurisdiction.

Chair Lauing: Alright I don’t hear any motions on Eight so we can move onto Nine. Allow existing driveways to be expanded to accommodate replacement parking Page 26. Well, something that we already talked about. Yeah, we actually spilled over into that as well. Sorry, what’s the question?

Commissioner Waldfogel: Oh, just any... I’m just looking at this. Are there any tree standards? If an existing driveway is expanded are there a restriction on (interrupted)

Mr. Lait: Well yeah, I guess through the review process if the Urban Forestry Department found that expending that you know (interrupted)

Chair Lauing: Protected trees.

Mr. Lait: Yeah.

-
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1 Commissioner Waldfogel: That's (interrupted)

2

3 Mr. Lait: I mean we would find somebody to work around that. I mean we're talking about a... I

4 mean they still have to be able to get a permit and (interrupted)

5

6 Commissioner Waldfogel: It's just that we're allowing a lot of new paving on parcels now.

7

8 Mr. Lait: Yeah, we have a limit. I think it's at 60 percent permeable threshold for front yards so

9 we're not going beyond that threshold but you're right. I mean that's (interrupted)

10

11 Commissioner Waldfogel: Yeah and so this... it'd be nice just to have a little bit of discretion

12 here. I'm not quite sure how to frame it but or how to phrase it but if there's a choice between

13 say expanding here into a tree or there into something else. You know it'd be nice to encourage

14 people to do the something else.

15

16 Mr. Lait: Yeah you know I think for the most part we are able to work with folks at the counter

17 to sort of negotiate these things and we do say to the minimum extent necessary to reinforce

18 that we don't want it to be a big change. But yeah no I... So, we were... so the deal was to do

19 the replacement parking and it needed to meet the dimensional requirements and often the

20 driveways themselves didn't meet the standard dimensions for a parking space. And so that's

-
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1 we either... So, I guess with this amendment we would either grant the reduction in width
2 under the provisions of this or we would increase the width of the driveway if we thought that
3 was important. So, I mean to just further think that through, I mean if we did come across
4 something where we thought it was problematic we could just reduce the width of the required
5 parking.

6

7 Chair Lauing: Commissioner Alcheck had a question.

8

9 Commissioner Alcheck: So, I just do the requirement of front coverage... so there's... we dealt
10 with the issue of rear yard lot coverage earlier where we exempted the ADU from that
11 requirement. So, there's also a requirement that you can't what do you call it? Hardscape a
12 certain percentage of your front yard either so the question I have is are we exempting... you
13 wrote space necessary to comply with a replacement so is it safe to assume that the space
14 necessary to comply with the replacement would be exempted from that calculation?

15

16 Mr. Lait: No. It'd still be subject to the permeability requirements.

17

18 Commissioner Alcheck: So presumably if you (interrupted)

19

20 Mr. Lait: If you need 40 percent of your front yard for parking that's problematic.

-
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Commissioner Alcheck: Well no you could have... your hardscape could be more... well ok. You could have (interrupted)

Mr. Lait: The alternative is (interrupted)

Commissioner Alcheck: Here's what I'm trying to say. I think there are two concerns that I have here. The first is we don't really want to move every car to the street so we do want to help homeowners accommodate the parking spaces and so I think it might be worthwhile to just make sure that because it's my understanding that often times these the front hardscape rules you can come close to those limits. And so, I don't know exactly but it'd [note- I'd] be curious to know if we should discuss that. Principle if the law requires that we accommodate it anywhere on the lot I'm not entirely sure that the hardscape rules in the front can stop somebody. That's number one.

Number two I would suggest that if there was an issue of accommodating the parking because of the hardscape coverage requirement and also may be separately we ought to consider the implication to homes that have permit requirements. So, I don't know exactly what the downtown residential permit is. If it's two per residence or if the Crescent Park is two per residence but if we might want to encourage Council to consider increasing household permits

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1 if an ADU is developed. So that they... I don't know, that might be crazy talk but I'm just saying
2 there are some considerations here.

3

4 Mr. Lait: So, on this particular amendment we're... I want to follow the Chair's lead on this. I
5 mean we're bringing this to you because we've had the constraint about being able to put the
6 required parking on a driveway. We're not coming to you because we have a constraint about
7 permeability and so if we do find that we have that problem we may be back in six months,
8 eight months, a year saying oh gosh, we did this but here's this other thing that we're bumping
9 up against and we'll have to make some tweaks and amendments. So as far as where we are
10 today this is what we're seeing and this is what we're trying to address.

11

12 Chair Lauing: Ok I think that concludes the comments on that and then we can move to the
13 main motion for a vote. I'm sorry to do you have... Commissioner Gardias?

14

15 Commissioner Gardias: So, I just want to have a clarity right because I came to this meeting, of
16 course, ready to discuss the Staff's proposal but I also have a number of my proposals. And I
17 believe that also that Commissioner Alcheck as well as Commissioner Summa they have a
18 substantial number of some other questions comments and proposals modifications as do I.
19 And so, I'd like to understand what is the next step right? We went through this so probably we
20 should just close this item and please just guide us to the next steps.

-
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Chair Lauing: Right so what I was going... There are two issues that we still have to deal with. One of them is exactly that so I was going to suggest that because Staff had specifically nine, one or two which have gotten amended. That we should vote on that and approve the nine. The second two items remaining are the... I don't know what they are titled but options to make ADU available to moderate or low income and strategies for legalizing illegally constructed ADUs. My recommendation would be that we continue that to a different date because I think we could have a productive substantial i.e. possibly long discussion on those two items. So that would be my... let me just give the whole [unintelligible]. Yeah and then the item that you brought up is very important and we need to get to it. The question is do we want to get to it starting at 10 p.m. tonight or do we want to continue that to the next meeting so that we have time potentially this much time because I have no idea how many of those amendments are coming up. So, Commissioner Alcheck you had a question.

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Commissioner Alcheck: I like this plan. I just want to point out there's one issue I have with it. I don't think that you can take a vote tonight on anything because all of the processes that we did today was amend the motion. These weren't treated as unfriendly so what we would vote on would be the actual ordinance and there are other amendments that we'd like to make to the ordinance. So, if you approve the ordinance as amended then it doesn't incorporate any of the changes that we'd like to make. I think what you need to do tonight is continue the item

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1 and then the final vote would incorporate everything we've done tonight plus amendments
2 discussed.

3

4 Chair Lauing: Yeah so, I'd like to just to get Staff input on that because I think at the least what
5 they would like to know if these nine are acceptable so that they can work on that but
6 (interrupted)

7

8 Commissioner Alcheck: I think they are though because you accepted them.

9

10 Chair Lauing: Right but we didn't vote on the overall ordinance.

11

12 Commissioner Alcheck: You can't vote on the overall ordinance because we haven't had the
13 chance to amend it.

14

15 Chair Lauing: Right so I'm not disagreeing with you. I'm just saying what's an amenable process
16 here so that you know the nine are fine, good to go but that other amendments from two or
17 three or four Commissioner still want to have some discussion.

18

19 Mr. Lait: Yes, so I'm fine with however the Commission wants to proceed. I just don't want to
20 renegotiate these nine items.

-
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1 Chair Lauing: No. I think that (interrupted)

2

3 Mr. Lait: So maybe we can make a motion to just... I don't know. I mean I would suggest that we
4 come back (interrupted)

5

6 Chair Lauing: We can approve these nine changes and not specifically approve the ordinance if
7 that's a way to parse the situation so that you know that's good to go, green light.

8

9 Mr. Lait: Yeah that sounds good. Some kind of a motion that these... that we're accepting these
10 nine changes and then Staff will work on fine tuning the language that (interrupted)

11

12 Vice-Chair Monk:

13

14 MOTION #2

15

16 Chair Lauing: That'd be great so I would so move that.

17

18 Mr. Lait: Ok but I was going to finish that sentence by saying that (interrupted)

19

20 Chair Lauing: Oh, I'm sorry.

-
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Mr. Lait: Between now and Council we might fine-tune the language. If there's some stuff that we can come back and report so we'll do that when we have the meeting. And then at the next meeting there's I guess... well, we'll leave it at that but maybe we don't close the subject just for a moment so I'm saying let's vote on these nine.

Chair Lauing: Right so would be the idea that we're (interrupted)

Commissioner Alcheck: So, are you suggesting that we treat these as unfriendly amendments?

Chair Lauing: No, I'm just saying that we should approve the fact for Council for... sorry for Staff.

Commissioner Alcheck: I know. I'm really... I don't intend to interrupt but you have a motion on the floor and you've accepted amendments tonight. And if you intend to vote on that motion I think you have a procedural problem and so I think you need to make a new motion (interrupted)

Chair Lauing: I did.

Commissioner Alcheck: Or withdraw you're (interrupted)

-
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Chair Lauing: Because we're not down with that so we can't approve the ordinance. I accept your input on that. Propose to Staff that we go ahead and suggest that those nine as discussed and amended are fine but we're not done discussing potential new changes to the ordinance so we can't pass that.

Commissioner Alcheck: Ok. I mean I don't intend to bring up these items next week or two weeks.

Vice-Chair Monk: May I ask that Staff (interrupted)

Chair Lauing: No but I think that's the kind of (interrupted)

Commissioner Alcheck: They're not moving this to Council yet, right? It's coming back to us.

Chair Lauing: Right.

Commissioner Alcheck: So, I don't know that it's any different than just continuing the item.

Mr. Lait: So yeah that's fine.

-
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Vice-Chair Monk: Is it within our scope to bring up new items?

Mr. Lait: Sure. I mean in this ordinance I mean that's being presented sure. I mean so I guess it just might be cleaner if we just continue the item until April 25th and but with an understanding that we're not renegotiating these things that we've just discussed.

Chair Lauing: Yeah, I just thought we could give you that clarity. That's all I was trying to do so I think that's fine. And so, everyone is comfortable with that in terms of moving onto
(interrupted)

Mr. Lait: So, let's have you withdraw your motion.

Chair Lauing: I did. Thank you.

MOTION #2 WITHDRAWN

Mr. Lait: And then we just need a motion for continuation to April 25th if you're done talking about this tonight.

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1 Chair Lauing: So that's the question that's on the table. If anyone wants to press on with
2 entirely new amendments but I think there's a fatigue factor here so.

3

4 Vice-Chair Monk: [off mic] Can we modify the motion to accept those nine things?

5

6 Chair Lauing: We don't need too. We're just giving him a sense that it's approved.

7

8 MOTION #3

9

10 Commissioner Alcheck: I'll move to continue the item so that we can dialog the what I imagine
11 are a number of amendments from everybody else who hasn't had a chance to sort of raise
12 their individual issues with some of the ordinances. So, I make a motion that we continue this
13 item at our next meeting and pick up exactly where we left off with no rehashing of what we've
14 already discussed.

15

16 SECOND

17

18 Chair Lauing: Yep I'd support that with a second.

19

-
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1 Mr. Lait: And if I may before you vote, just because while we only have one member of the
2 public that's here in the audience today. There may be more that are interested in coming back
3 in light of the conversation that we've had. I don't want them to come back to the next meeting
4 where you're going to have a public hearing that's going to be packed full of people. So, can we
5 please continue this to April 25th?

6
7 Commissioner Alcheck: Yeah sorry, to a date specific, April 25th.

8
9 Mr. Lait: And I would like (interrupted)

10

11 Commissioner Alcheck: But I don't know that I would recommend that we don't allow... I think
12 you could restrict speakers who have already spoken but I think you should allow people who
13 haven't spoken to speak.

14

15 Vice-Chair Monk: Could I propose to push it out two weeks because don't we have a pretty
16 packed agenda on the 25th?

17

18 Chair Lauing: 25th is two meetings out.

19

20 Commissioner Alcheck: Sorry were you saying not the 25th or the 25th?

-
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Vice-Chair Monk: Oh, wait I thought that was a pretty packed meeting night.

Mr. Lait: Well you have your housing discussion so it hopefully we can have a sufficient meeting on ADUs since we've at least covered the amendments that Staff's interested in. There's going to be a discussion about other changes that are interested in and I think we'd have to go through a process of seeing if there's support for those changes and folks are debate. I do think that we do need a Commission recommendation at your April 25 meeting or whenever this gets continued too if we're going to get this to Council as we had promised before they go on their break.

Chair Lauing: Yeah well what you had put on there it was almost in unerror [note -unknown word] can stay there.

Mr. Lait: Yes.

Chair Lauing: With an ADU ordinance second meeting.

Vice-Chair Monk: But you took off two things from April 11th so why wouldn't we hear it then?

-
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1 Mr. Lait: Because the (interrupted)

2

3 Chair Lauing: The anticipation is that the one agenda item is going to be long with a lot of public
4 speakers.

5

6 Vice-Chair Monk: This one? Ok.

7

8 Commissioner Waldfogel: [off mic] Is there any possibility that Commissioner comments could
9 be forwarded to Staff so that there's possibly some heads up coming into this?

10

11 Mr. Lait: Yeah or even if we can just go around before we adjourned to just get that would be
12 helpful too.

13

14 Chair Lauing: Which item are you speaking about?

15

16 Vice-Chair Monk: (crosstalk- off mic) Wait, wait before we switch gears on Assistant Director's
17 comment about public comment at the next continuous of this hearing. We... Just want to
18 clarify that we can accept public comment on the items that were not discussed tonight such as
19 the follow-up discussion items correct?

20

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1 Mr. Lait: So, your public hearing is closed I think at the moment. I don't know if you... did you
2 close the public hearing? I mean you certainly can close the public hearing and then it's just the
3 Commission's deliberation. I mean we had this it the public hearing, you're continuing your
4 deliberation so (interrupted)

5
6 Chair Lauing: I'm not sure what the distinction is you're trying to make. I mean the public can
7 come and speak at the next meeting. There's no constraint on that.

8
9 Mr. Lait: If the... if there is no new information presented and you're just continuing your
10 deliberation then there isn't necessarily an opportunity for the public to speak at that point.

11
12 Vice-Chair Monk: [unintelligible – off mic]

13
14 Mr. Lait: Yeah, it's your discretion.

15
16 Commissioner Gardias: Let's do this... sorry if I interrupt. Let's do the readout. I think it's a good
17 idea. Let's do the readout of our concerns so at least Staff and we ourselves at least have a
18 preview (crosstalk)[unintelligible]

19

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1 Chair Lauing: We're talking about concerns on what other amendments might come up. Is that
2 what we are speaking about?

3

4 Commissioner Gardias: Yes yes. Maybe not amendments but just the topics- I can just go
5 through the list of the topics that I would like to discuss with the Commission.

6

7 Chair Lauing: Sure, no I think that's fine.

8

9 Commissioner Gardias: Hopefully we can have early preview ;

10

11 Commissioner Alcheck: Look it's fine if you want to do that. I don't want to extend the meeting
12 by doing that and I don't think that anybody would be required to not be able to speak to an
13 item simply because they didn't list it. So (interrupted)

14

15 Chair Lauing: Maybe it is more (interrupted)

16

17 Commissioner Alcheck: If the goal is to get feedback from Staff I think Asher's recommendation
18 which is just to email Staff would be a lot more efficient if that's the goal because simply
19 reading off the topics right now, I'm not going to do it because I can just email them.

20

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1 Chair Lauing: I think that's fine, I think that's fine. I think that's a good idea because it's more
2 efficient that way.

3

4 Commissioner Gardias: There was no intention to limit you or anybody right.

5

6 Commissioner Alcheck: No, I know.

7

8 Commissioner Gardias: So, I just... and I may have more thoughts right I just want to make their
9 life easier and yours as well because there may be items that may catch your interest.

10

11 Chair Lauing: I think what they are saying is that you know if there are three to thirty items that
12 go to Staff and then that can come back in the Packet next time. Then everything is or more
13 efficient.

14

15 Commissioner Alcheck: So, do you want to vote on the motion to continue?

16

17 VOTE

18

19 Chair Lauing: Yep. Anybody else? Any comments? Ok motion to continue to a date certain of
20 April 25th, right? Ok. Unanimous.

-
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MOTION #3 PASSED (6-0 Commissioner Riggs absent)

Commission Action: Commissioner Alcheck made a motion to continue the discussion to April 25, 2018 (Seconded by Chair Lauing). Motion Passed 6-0 (Riggs absent).

Approval of Minutes

Public Comment is Permitted. Five (5) minutes per speaker.^{1,3}

4. February 14, 2018, Draft Planning & Transportation Commission Meeting Minutes

Chair Lauing: Alright the next item is approval of the minutes.

MOTION

Commissioner Summa: Move approval,

Chair Lauing: Summa moved approval. Second?

SECOND

Vice-Chair Monk: Second.

Chair Lauing: From Monk. All in favor? 6-0 thank you.

MOTION PASSED (6-0 Commissioner Riggs absent)

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1 **Commission Action:** Motion to approve minutes was made by Commissioner Summa
2 (Seconded by Vice-chair Monk). Motion Passed 6-0 (Riggs absent).

3 **Committee Items**

4
5 Chair Lauing: I don't think there are any Committee items that we haven't heard from.

6
7 **Commissioner Questions, Comments or Announcements**

8
9 Chair Lauing: So just before we get to that, let me go back and just look at this tentative agenda
10 for the future. As far as we know there are no changes right now for April 11th correct?

11
12 Mr. Lait: We're going to pull off the two study session items and just have the public hearing
13 item on 305 North California.

14
15 Chair Lauing: Ok.

16
17 Commissioner Alcheck: Sorry can I ask a question?

18
19 Chair Lauing: Sure.

20
21 Commissioner Alcheck: Thank you. I see that you have scheduled for April 25th the second
22 hearing on this ADU Ordinance. I thought it was safe to assume that we would have two

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1 meetings on it. Is there any reason why we couldn't consolidate the ADU Ordinance discussion
2 into the April 11th now one item meeting?

3

4 Mr. Lait: Right, I think this April 25 was anticipating a more significant ordinance than the one
5 that we're actually advancing so I don't think that there's a need for the April 25 meeting but
6 that will be revealed here in I think moments.

7

8 Commissioner Alcheck: Ok so let me rephrase that question. If in fact, we do see that this
9 discussion will require maybe a second meeting to get some new stuff from staff. Could that
10 follow up be on April 11th instead of April 25th?

11

12 Mr. Lait: I think you're (interrupted)

13

14 Commissioner Alcheck: Is that too soon?

15

16 Mr. Lait: Underestimating the public input that you're going to receive on that item.

17

18 Commissioner Alcheck: Ok. Alright. So, no then?

19

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1 Mr. Lait: I'm not saying no. If the Commission wants too. I would say let's get through Item
2 Three and or see where it ends up. And if there's a need to continue it to the 11th you can have
3 that conversation. I think it's going to be a late night.

4

5 Chair Lauing: Alright then just looking at April 25th. The third item there talks (interrupted)

6

7 Commissioner Alcheck: I'm sorry. You meant that the Baptist Church item I'm underestimating
8 how many comments we'll get on the Baptist Church item?

9 Mr. Lait: Yes.

10

11 Commissioner Alcheck: Got it and so it wouldn't make sense to have a second item that night
12 because it's going to take forever.

13

14 Mr. Lait: [unintelligible] (crosstalk)

15

16 Commissioner Alcheck: Sorry, it's going to take a long time. Alright, so I guess my question is if
17 we decide to continue some items tonight on the ADU Ordinance to get more information than
18 the 25th would be the earliest probably and best time to go it again. Ok sorry (interrupted)

19

20 Mr. Lait: Correct, yes.

-
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Commissioner Alcheck: I didn't understand that.

Mr. Lait: Ok thank you.

Chair Lauing: Ok so just looking at the following meeting on the 25th. When you're discussing there the Housing Work Plan overview of issues and options including key findings from analysis of residential capacity. Is it possible to see the questions earlier than the 25th so we can understand that going into the key findings?

Mr. Lait: What questions are you referring too?

Chair Lauing: You're making findings on some set of questions on residential capacity so I'd just like to know what the (interrupted)

Mr. Lait: I think the idea is that we're presenting a report that has some findings. It's presenting the work that was done.

Chair Lauing: Right right and I was just saying in advance maybe on the 11th could we see... I don't know where you are in the process.

-
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Mr. Lait: So, you would like the Residential Capacity Report to be presented before your typical Packet delivery?

Chair Lauing: Or do it in the April 11th delivery just to kind of preview it.

Mr. Lait: Ok we'll see what we can do to move an earlier release of that item so for your consideration on April 25.

Chair Lauing: Any other questions on agenda items in the next couple months? I mean sorry, next couple meetings? Ok.

[The Commission moved back up to Item Number Three]

[This item was continued after hearing the rest of the agenda]

Chair Lauing: Any Commissioner questions, comments, announcements or comments on future agenda items? Commissioner Gardias.

Commissioner Gardias: Yes, so there was a question to Director Gitelman about the for the meeting with the City Council. I don't know if Assistant Director Lait has an update for us but

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1 she was going to check with the City Clerk about the possible time. With the City Council for...
2 City Council meeting with the PTC.

3

4 Mr. Lait: Yeah, I saw that there was an email making that inquiry but we have not heard back
5 yet.

6 Chair Lauing: Other items? Yeah, Commissioner Alcheck.

7

8 Commissioner Alcheck: I attended a pretty spectacular conference last Friday. It was called
9 Housing the Bay. It was remarkable. There were so many amazing speakers and I had... wanted
10 to do a little quick summary of it but I don't think that's a great use of time so I'm... if it's alright
11 with the Chair I might put together a written summary (interrupted)

12

13 Chair Lauing: Yeah that'd be great.

14

15 Commissioner Alcheck: Of some of the speakers that we heard. It was the first time ever that
16 the Director of Planning for San Jose, San Francisco, and Oakland were on the same stage
17 together. And having these senior members of Staff from these Cities talking about how to deal
18 with the housing crisis was utterly illuminating. And I think that there were a lot of things that...
19 there are so many things to sort of taking away from it so I would like the opportunity to maybe

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 3. The Chair may reduce the allowed time to speak to three minutes to accommodate a larger number of speakers.

1 do that and if I have time in the next two weeks I'm going to try to put together some quick
2 summary.

3

4 Chair Lauing: Was there a bibliography of things that some of those speakers had published or
5 transcript of some of their speeches?

6

7 Commissioner Alcheck: You know I did attempt to record almost every session and I have the
8 entire... I took notes on all the different speakers and I could identify them if that was
9 something of interest to you. I have the program for example but the... it was everything sort of
10 economists and housing advocates including Eden Housing was there and Palo Alto Housing
11 Corporation was there. Eden Housing actually had presentations on the dais in front of over 500
12 individuals. So, there were Planning Commissioners who were invited from the City of San
13 Diego to speak about the work they did in San Diego and Napa. There were Planning Staff
14 Members like Senior Planners from Oakland and San Francisco and I believe maybe Santa Rosa
15 that spoke. It was really a diverse sort of crowd. Anyways so I'll try to put something together
16 because I think it would be interesting for some of you.

17

18 Chair Lauing: Yeah great thank you. I don't see any other issues do it? Did you have...
19 Commissioner Gardias your mic is on but your light isn't so.

20

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1 Vice-Chair Monk: I just want to announce that I might have a planned absence and it might be
2 this May 9th and we already one planned absence I believe so just letting folks know.

3

4 Chair Lauing: Pardon?

5

6 Vice-Chair Monk: I might be absent I'm not sure but I see that Riggs is noted so just wanted to
7 alert attention to that.

8

9 Chair Lauing: Thanks for your time and very good efforts tonight. We stand adjourned.

10 **Adjournment**

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Palo Alto Planning & Transportation Commission

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Chair Michael Alcheck
Vice Chair Asher Waldfogel
Commissioner Przemek Gardias
Commissioner Ed Lauing
Commissioner Susan Monk
Commissioner Eric Rosenblum
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Write to us. Email the PTC at: Planning.Commission@CityofPaloAlto.org. Letters can be delivered to the Planning & Community Environment Department, 5th floor, City Hall, 250 Hamilton Avenue, Palo Alto, CA 94301. Comments received by 2:00 PM two Tuesdays preceding the meeting date will be included in the agenda packet. Comments received afterward through 2:00 PM the day of the meeting will be presented to the Commission at the dais.

Material related to an item on this agenda submitted to the PTC after distribution of the agenda packet is available for public inspection at the address above.

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