



Planning & Transportation Commission Action Agenda: January 30, 2019

Council Chambers
250 Hamilton Avenue
6:00 PM

Call to Order / Roll Call

6:07pm

Chair Lauing: Good evening. I'd like to call to order the January 30th, 2019 Planning and Transportation Commission regular meeting and we'll please call the roll? Great, full slate, first meeting of the year, and a hardy welcome to our two new colleagues. Welcome, welcome.

Commissioner Roohparvar: Thank you.

Chair Lauing: Chance to meet offline and now we get to go to work.

Commissioner Roohparvar: Very good.

Oral Communications

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

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1 Chair Lauing: The first official item of business is oral communications on any subject that's not
2 on the agenda and at this point, I have no cards for that. So, if anybody is intending to speak on
3 something that is not on the agenda, we would need a card now.

4 **Agenda Changes, Additions, and Deletions**

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

6

7 Chair Lauing: Ok relative to agenda changes, additions, or deletions there are none relative to
8 the official agenda. One addition was added later but in plenty of time and that's the election of
9 Chair and Vice Chair before the reading of the minutes.

10 **City Official Reports**

11 1. Assistant Directors Report, Meeting Schedule and Assignments

12

13 Chair Lauing: So, the next item is City official reports so we'll turn it over to Acting Director Lait.

14

15 Mr. Jonathan Lait, Assistant Director of Planning: Thank you Chair Lauing, welcome everyone. A
16 few items to report. One is some updates at the City Council level. The City Council earlier this
17 year at the first meeting that they were considering official business beyond the election or the
18 appointment of Mayor and Vice Mayor was to consider the Wilton Court Project which this
19 Commission had reviewed and that was approved. It's that 59-unit affordable housing

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1 development and under the Affordable Housing Ordinance that the Commission had also
2 looked at and was endorsed by the City Council. So that was approved earlier this year.

3
4 And then this Monday or last Monday, actually I don't remember. When was it? I think it was
5 Monday. The City Council adopted the Housing Ordinance from the Housing Work Plan and
6 that, of course, the Commission will remember spending a good part of last year working on
7 that. And that was largely adopted with the Planning Commission recommendations. There was
8 a couple of nuance changes here and there and we'll try to get together a summary of the
9 action. It's going to go second reading either in late February or early March for City Council
10 final approval.

11
12 And then on next Monday there is a Staff report that we prepared related to the Stanford
13 General Use Permit. And this is not an item that we have any regulatory control over but the
14 City Council will have a discussion about some areas of interest that they may want to forward
15 onto the county as... in their consideration of a possible development agreement with Stanford
16 and that's available online.

17
18 The City Council on February 11th will consider the ordinance that was presented to the
19 Planning Commission in July dealing with the repeal of the Downtown Office Cap. And so, I

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1 think... I don't have the information in front of me as far who's our representative for February
2 but that would be one to... we can follow up on that one.

3
4 And then lastly, I wanted to make sure that the Commission was aware and the public that
5 there will be our first community workshop is planned for the North Ventura Coordinated Area
6 Plan and that's going to be scheduled for February 5th, 2019 from 6pm to 9pm at Mitchell Park
7 Library in the El Palo Alto Room. So, we would encourage members to participate and join us at
8 that meeting. If you want more information about the NV Cap you can get that online at
9 Paloaltonvcap.org. Thank you.

10

11 Chair Lauing: Ok, thank you very much, good update. Council has been busy already.

12

13 **Study Session**

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

15 2. Study Session to Review and Provide Comment to Public Works Staff Regarding the
16 Draft Green Stormwater Infrastructure (GSI) Plan. The Municipal Regional
17 Stormwater National Pollutant Discharge Elimination System Permit (MRP), requires
18 the City to develop and implement long-term GSI Plans for the inclusion of GSI
19 measures into storm drain infrastructure on public and (sometimes)private property,
20 including streets, roads, parking lots, roofs, and other elements. The Plan Must Be
21 Completed and Approved by September 30, 2019. For More Information, Contact
22 Pamela Boyle Rodriguez at Pamela.BoyleRodriguez@cityofpaloalto.org
23

24 Chair Lauing: Ok the next agenda item is a study session, Item Number Two. I also do not have
25 any public comment on that but do we have a Staff presentation?

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Mr. Jonathan Lait, Assistant Director of Planning: Sure, we'll just take a moment and get our Staff up here. So, Chair we're going to go ahead and Karen is going to give you a brief introduction.

Chair Lauing: Ok.

Ms. Karin North, Manager Watershed Protection: Can you see it? It's just the bottom right corner. There's a... yeah.

Ms. Pamela Boyle Rodriguez, Manager, Environmental Control Program: Thanks. Hello Commissioners, I'm Pam Boyle Rodriguez, Storm Water Program Manager with the Watershed Protection Division.

Ms. North: My names Karin North, I'm Watershed Protection Manager, we're at Public Works somewhere out at the Waste Water Treatment Plant but we also do stormwater compliance as well.

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1 Ms. Boyle Rodriguez: So, thank you for having us. We have a limited time on the agenda so we
2 just wanted to very quickly give you an update on what we're doing to develop the Green
3 Storm Water Infrastructure Plan or GSI.

4
5 We're at the 85 percent version. We just posted it on our website, [cityofpaloalto.org\GSI](http://cityofpaloalto.org/GSI) for
6 Green Storm Water Infrastructure, and it is a plan that's required by the Storm... by the
7 Regional Storm Water Permit that we have to follow. That... it's enforced by the Regional Water
8 Board for the whole region so we wanted to tell you a little bit about it and also tell you just
9 make sure that everybody's on the same page with what stormwater is and GSI. Just make sure
10 that everybody's on the same page with what stormwater is and GSI. Give you a brief summary
11 of the plan and just introduce what we might be thinking for private projects and get some
12 initial feedback from you.

13
14 So, and I apologize if everybody already knows this but I just wanted to make sure that we
15 understand what the two underground systems are that we have in the City of Palo Alto. The
16 indoor plumbing from inside buildings go... and wash water from inside goes to the sanitary
17 sewer lines and goes to the treatment plant. It's treated at our treatment plant before it gets
18 discharged into the Bay. Whereas our other system, our storm drain system, receives all surface
19 drainage from rooves, streets, irrigation, from landscaping and it goes into our storm drain
20 and/or catch basin at the curb and gutter. And it does not get treated before it gets discharged

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1 to the creeks and the Bay and that's important because when rain falls on roofs and other
2 impervious surfaces, non-landscaping, and non-pervious surfaces, it picks up pollutants from
3 various land uses. Commercial, industrial, trash, restaurants, oil, gas, construction activities, and
4 all those things go into our storm drain system and they are not removed or treated before
5 they go into our creeks and that Bay.

6

7 So, we have this plan that we're creating about GSI and GSI is a system that uses soils, plants,
8 based on the previous nature of natural processes and it allows us to capture pollutants. So, on
9 the left, I don't know if you can tell, it's not shown very clearly but on the left is a bio-retention
10 area or bio-retention planters and it has an opening at the inlet. And that inlet, instead of going
11 to the storm drain system it's actually capturing the runoff and putting it into the planters. The
12 soil and the plants are chosen from a special plant pallet, it's a special soil mix, and it's meant to
13 capture pollutants. And the overflow may go to the storm drain system or it might infiltrate to
14 our water table depending on what the level of the water table is. At the top right, we have
15 pervious pavement which allows stormwater to infiltrate instead of hitting the parking lot, pick
16 up oils and go to the storm drain system. And then at the bottom right we have what would be
17 a large stormwater retention storage system to capture stormwater and to be used for
18 irrigation later. That's what it would look like in construction but once the construction is over it
19 would just look like a field or a park and you wouldn't be able to tell what's underneath.

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1 One example of what we have in Palo Alto is in the South Gate Neighborhood. I don't know if
2 anyone lives in that neighborhood but we have a various stormwater GSI feature that captures
3 runoff from the street. And we... there's also a few pervious pavement pathways and these
4 were put in because it... some of that neighborhood does not have a traditional stormwater
5 system. So, these were put in a few years ago and they've been relatively successful. The
6 neighbors have embraced them and sometimes help maintain them.

7

8 One subset of GSI is another term, it's Low Impact Development or LAD. It's a way to keep
9 stormwater on site and this is important... this going to be important because we're... it touches
10 on some requirements for private properties later. It's a way to not necessarily capture
11 pollutants but find a way to infiltrate stormwater. So, this is an example, on the left is
12 traditionally structures that has their roof runoff go down into the downspout to a storm drain
13 system... goes... or to the street. So, there's a couple of ways we can disconnect the
14 downspouts. The one in the middle shows it going to landscaping directly and then on the right,
15 it shows it going either to a rain barrel or to landscaping. Those are ways that we can
16 disconnect our downspouts.

17

18 So, what we are required to have in our GSI Plan and what the vision is, is to move over... move
19 from this traditional way we've been managing stormwater of having it go down the curb and
20 gutter into the storm drain system. And move from that to what we're calling more of a green

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1 approach and so that we use more of a GSI feature and we start to transform the way we
2 manage our stormwater.

3

4 Briefly, I'm just going to go over the components of what we're required to have in the GSI
5 Plan. One is that we are required to look at City properties and prioritize what the potential is
6 to integrate GSI at that location so we've done that in that in the plan. We're required to track
7 all GSI features on public and private properties and we need to have that available to the
8 public. We need to have engineering specifications for all the GSI features that we're going to
9 be putting on our properties and once we have those, we're going to be requiring those for
10 private properties as well. So that they can be consistent and we can measure performance
11 throughout the City. We have to integrate GSI language in all our planning documents at the
12 City in which we'll be changing the way that we do development. Not just for our City
13 properties but for all private properties. We need to find a way to fund both the design and
14 construction of GSI and also the maintenance of GSI. We have to have a really thorough
15 implementation plan and we are responsible for outreaching and educating Staff, the public
16 and Elected Officials.

17

18 And the reason I wanted to tell you about LID was that it does touch at the same time on
19 another project that we're doing which is that we're updating our Storm Water Municipal Code.
20 It's Chapter 16.11 and we'll be going to Council with that in a couple of months. One

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1 requirement that we're having vetted by Staff and soon the public is that we want to go beyond
2 the current stormwater requirement. Right now, for projects that are 10,000-square feet or
3 above, those are required to have stormwater treatment on site. We want to go beyond that
4 and we want to require LID. As a reminder LID just captures the stormwater and makes it stay
5 on site which can even be done by disconnecting spouts and maybe putting impervious
6 pavement and just designing a site to minimize impervious surfaces. We want to do that for
7 projects... all projects that are less than 10,000-square feet. So, they are not required to have
8 stormwater treatment, we want them to at least keep their stormwater on site. And for single-
9 family homes that are between 2,500 and 10,000-square feet they would be required as well.
10 And that's something that hasn't gone through yet but just in case there's feedback on that I
11 wanted to share that with you. For one more item that we have in our plan is as I mentioned
12 the plan really focuses on City properties and our right of ways but we are putting some ideas
13 forth. And once the plan accepted, we're going to be really looking at how to integrate more
14 GSI in our private property. And one thing we're considering is maybe decreasing that threshold
15 of 10,000 so that we can trigger more GSI on private properties. We're also considering an
16 alternative compliance program so that for projects where they... that are maybe from lot line
17 to lot line and stormwater treatment can't fit on site. There might an option to pay an in-lieu
18 fee to the City so that that the City can then maybe put GSI on their public property or on
19 streets. Another option is maybe looking at development projects and when development
20 projects occur, if they meet particular criteria then they would be required to integrate GSI and

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1 build GSI in the right of way. Of course, that does bring up questions of who would maintain it
2 so we're at this point not ready to propose any new requirements because we have to really
3 think about those logistics in detail.

4
5 And finally, in terms of the GSI Plan right now as I mentioned the 85 percent plan is out. We're
6 hoping to get comments and to have 100 percent draft. We're going to have a public meeting in
7 a month, month in a half and once we get those final comments, we're hoping to have a final
8 plan done in May, hope to go to Council, and have it accepted by the end of June at the latest.
9 And then we're required to submit it to the Regional Water Board in September. Thank you.

10
11 Chair Lauing: Ok and then Jonathan would you like to comment on our purview here since it's
12 just a study session?

13
14 Mr. Lait: Yeah so, I think this is being presented not only to the Planning Commission but also
15 to the Parks... Park and Rec Commission as well. I think that the interest here is to see if the
16 Commission has any insight or perspective based on the material that's been provided and then
17 testimony. The actual purview would ultimately be with the City Council when they adopt the
18 plan. And so... but you are connected to the community, you hear community issues, and so to
19 the... some of you I think may even have some experience with redevelopment. So, to the
20 extent that you have some interest or perspective on that, we'd welcome that.

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Chair Lauing: Ok great so just light up your lights if you want to speak. The first light I see is Commissioner Waldfogel.

Commissioner Waldfogel: I'll bite. Thanks for the presentation. Just a question for you, I'm not familiar with GSI issues but I'm a little puzzled by one of the assumptions which is if stormwater stays on site then it's percolating locally into the soil. And doesn't this just shift the problem around into a local groundwater plumb issue for any contamination that might be in that versus bringing it to a central location where we can actually process it?

Ms. Boyle Rodriguez: Well the main point of keeping it on site if it's not being treated by any kind of stormwater treatment measure or GSI then at least there's less flow going to our storm drain system. And it's being slowed so that there's less impact from increases flow to the creeks.

At the same time, it if infiltrates because in some areas... unfortunately, in Palo Alto, we have a very high water table so we can't always have it infiltrate down to groundwater... to our groundwater aquifer. We have a couple of different aquifers in the City where it might infiltrate

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1 and the actual water supply is much deeper and we likely won't have it infiltrate for a water
2 supply aquifer.

3

4 The groundwater plumb is also much deeper and if we are in an area were, we have a
5 groundwater plumb then we won't allow it to infiltrate to the ground. We'd have to capture it
6 in some kind of maybe lined area where it would go back to the storm drain system. So, the
7 pollutants would be captured but it won't be making the groundwater plumb migrate.

8

9 Commissioner Waldfogel: Yeah, I think that you need to just refine that argument a little bit
10 more because it certainly doesn't come out in what you presented to us tonight. I know that
11 we've taken up issues about chemicals migrating from the Research Park into other areas. So
12 just be prepared for that discussion because what you presented to me sounds like a real non-
13 starter and I'd just like to understand the science of this better.

14

15 Ms. North: Can I just make another comment? Just a... so any Green Stormwater Infrastructure
16 that the City is creating in an area where there's plumb, it actually will be lined. So, there will
17 not be any infiltration into the groundwater basin in those areas so that's part of the planned
18 development.

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1 What Pam was eluding too is when we... when we're talking about trying to keep our rainwater
2 on our site in a home, that's a little bit different. But if a large amount of water is coming
3 through our traditional stormwater infrastructure and we're slowing the flow and treating it
4 and it's in a plumb area it will be lined. So, then it will get treated and then it will go back into
5 the typically [unintelligible] system.

6

7 Commissioner Waldfogel: Would a residential development have to take that on? Have to take
8 on lining and other mitigation measures?

9

10 Ms. North: No, because the residential lining is not... we're not talking about the quantity of
11 water on a 6,000-square foot lot versus an entire watershed area being drained. So, it's a little
12 bit different, so we're not talking about... you're going to have your nature water when it's
13 falling on an existing 6,000-square foot lot that may be above a plumb will infiltrate. That
14 happens currently right now so we're talking about these large-scale watersheds that are
15 coming in. Taking off the downspouts, we don't have the science behind this to state that that
16 extra water that's going to be coming off is going to migrate that plumb.

17

18 Commissioner Waldfogel: [unintelligible – off mic]

19

20 Ms. North: Yeah, no I... we appreciate it.

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Chair Lauing: Commissioner Templeton.

Commissioner Templeton: Thank you. First of all, thank you for preparing this presentation and for sharing it out to the community. I saw your presentation at Barron Park this weekend. Do you have any plans to discuss this with any more community groups?

Ms. Boyle Rodriguez: At this point, we just have the... we're just going to have the public meeting.

Commissioner Templeton: Ok, ok.

Ms. Boyle Rodriguez: We are sharing it with local groups like Grassroots Ecology and Canopy (interrupted)

Commissioner Templeton: Oh perfect, yeah, that's great.

Ms. Boyle Rodriguez: Save Palo Alto Ground Water.

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1 Commissioner Templeton: Awesome. I really appreciate what you've done over at Mitchell
2 Park. It's beautiful. That wasn't in the presentation. I just want to call that out and make sure
3 that people know that we've seen it in action and it can really enhance the property.

4
5 And then I had a couple of questions so in your presentation you showed a planter that was
6 inset into the ground. I don't know if we have plans to do anything like that in Palo Alto... this
7 one, you got it. But when I look at that I'm a little bit concerned about tripping hazards,
8 pedestrian safety, mobility for people that use mobility devices. Can we talk about making sure
9 that you've taken that into consideration?

10
11 Ms. Boyle Rodriguez: I think we'll be able to deal with all those issues including ADA
12 requirements through the project scoping and project design process when we're meeting with
13 Staff. One thing that we're hoping to be able to facilitate is a lot more collaboration between
14 departments when we're working on projects. And so even when small questions come up, we
15 can deal with those before we get to a design phase where we could come to the public for
16 comment.

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18 Commissioner Templeton: Great so... but as long as that's on your scope [unintelligible].

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1 Ms. Boyle Rodriguez: It is defiantly there and we... when we create those specifications that I
2 mentioned, we're planning to work with all of the departments. Whether it's with utilities when
3 they can tell us what their requirements and challenges are and constraints are. We would also
4 be considering ADA, transportation, and other items. Thank you for asking.

5
6 Commissioner Templeton: Awesome and my final question here is about infiltration duration.
7 You've talked about how it will slow down during [unintelligible] or whatever. I'm wondering
8 how much does it slow it down? Do we, for example, increase our risk of mosquitos or things
9 like that or is it on a smaller scale?

10

11 Ms. Boyle Rodriguez: Well the bio-retention areas are intended to only pond for a maximum of
12 72-hours. They usually just pond for a couple days and not even that. Most... it's mostly sand so
13 generally if let's say a rainstorm is for an afternoon it would probably already be infiltrated by
14 that evening. So, it shouldn't be an issue for mosquitos. I'm not aware of any issues and also
15 the Mosquito Abatement Control District inspects these sites yearly.

16

17 Commissioner Templeton: Awesome, great, thank you very much.

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19 Ms. Boyle Rodriguez: Thanks.

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1 Chair Lauing: Commissioner Summa.

2

3 Commissioner Summa: Me? Thank you very much and I've toured around the South Gate and I
4 think the job that you did there was really nice. I mean it looks really great so I was just curious,
5 this is a very general presentation and it looked from the last slide like this is the only time
6 you're coming to this body. But when will you have a comprehensive City-wide list or map of
7 the projects and where they will be that people can look at?

8

9 Ms. Boyle Rodriguez: We currently have a prioritized list in our plan. It does not prioritize
10 project, it prioritizes locations. So, it looks at all our City-owned properties and based on
11 particular criteria like where bikeways are, the kind of soil, where we know localized foot
12 flooding or ponding occurs. Based on various criteria we've prioritized all of our City-owned
13 properties and identified which are at least the highest priority of the best ones where we can
14 put GSI features. We didn't present that today because we had a limited amount of time. We
15 could always present more information in the future; whatever you would like.

16

17 Commissioner Summa: So, the community meeting is where community members will find
18 out if there's going to be a project in a park or street or something near them? Is that the idea?

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1 Ms. Boyle Rodriguez: Well they would find out how the... what the initial prioritization is so
2 right now we actually are... our Staff is also reviewing it. So that priority might change but what
3 we've done is just use an un-bias prioritization method based on criteria and we've prioritized
4 where we think it could go. So maybe larger parks or maybe... we've identified a lot of surface
5 parking lots that the City owns that are just completely impervious and that we can retrofit. But
6 we're not proposing any projects or even project concepts, we're not there yet. In the future
7 when we propose any projects then we would be coming back to you to discuss them.

8

9 Commissioner Summa: Ok thank you very much.

10

11 Chair Lauing: Commissioner Riggs.

12

13 Commissioner Riggs: Thanks. I appreciate the presentation. I think one suggestion there are
14 actual green complete street guidelines that actually have LID suggestions. So, it definitely
15 might be good to reference those but also so they get picked up by transportation division.
16 So...and I think that goes back to Commissioner Templeton's comments as well but there's
17 plenty of resources out there in that area but they don't always refer to is as Light R [note –
18 unknown term]. Light R [note – unknown term], sorry, other life, LID; another acronym.

19

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1 The other thing I just... throughout the presentation and looking at the material I'm struck that
2 we're not thinking about retrofits of existing... is this... it feels like this is all new construction.
3 So, is there any consideration of policy language and/or programs that could be nestled in that
4 could be either retrofit of any existing structures? It could even be targeted towards individual
5 homeowners, maybe even suggestions for a future incentive program that could offer for
6 individual retrofits? I know that this is not... I'm pretty sure this is not an anomaly that other
7 communities have, ether incentive programs or retrofit programs for individual downspouts. I
8 didn't see that in the presentation so I'm just curious if that's a consideration.

9

10 Ms. Boyle Rodriguez: I'm going to try to capture everything you just commented on.

11

12 Commissioner Riggs: Oh, sorry I was... a lot.

13

14 Ms. Boyle Rodriguez: One is the streets guidelines, are you referring to the NACTO Green Street
15 Guidelines?

16

17 Commissioner Riggs: Yeah so NACTO has stuff but I actually... its funny... look at Adrienne
18 Greve. Just Adrienne Greve and another person from Cal. Poly, San Luis [unintelligible] have
19 done a lot on this topic as well. And she bundles her stuff with Climate Sensitive Infrastructures

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1 so it just might be good to just broaden just beyond just the typical Green Book guidelines. So
2 that... just to clarify I'd say look beyond the Green Book.

3

4 Ms. Boyle Rodriguez: I would say that we're probably... although we haven't prioritized streets
5 that we're going to probably want to put more GSI on streets than on our parcel so that we can
6 get more bang for the buck. We are hoping that we can work with the Department of
7 Transportation so that we can create some very specific green street guidelines and we
8 definitely will use those are references. Thank you.

9

10 The other item is that we're looking a lot at redevelopment so yes, there's construction
11 happening. There's a lot of, as we all know, a lot of redevelopment going on in the City so we
12 want to try to capture those opportunities. Because we are very tied to a strict timeline with...
13 by the regional board to submit this plan in September, already accepted by the Council, we
14 wanted to just really focus on City properties in our right of way for now. And we are going to
15 really dig deep into what we can do with our private properties.

16

17 And in terms of project locations in terms of whether it's a new project like a parking garage
18 that the City's going to do or all of our parks that might be able to retrofit. We are thinking a lot
19 of about retrofitting like when there's park involvements when there's pathways that are
20 replaced, when parking lots are replaced. We're really going to think about all of those in terms

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1 of retrofitting and how we can even just grade it differently so that it goes to the neighboring
2 landscaping instead.

3
4 Commissioner Riggs: Well let me just nudge just a little more because I do think you're doing all
5 this work on public infrastructure. There's got to be a way to slip in... I mean if we can slip in
6 some policy language that nudges us to... I do think there are many citizens that even given
7 proper guidance from utilities would be able to contribute to the entire watershed as well. So,
8 I... it just seems like we want to make sure... I would want to make sure that there's not a
9 missed opportunity that's there.

10
11 Ms. North: So, I'll take one topic that I think Pam didn't address was the... you're talking about
12 the small... the residential development and existing infrastructure. So, we actually already
13 have an incentive program, we definitely are trying to revamp that and improve it on rain
14 barrels and cisterns and green roofs and permeable pavement on existing. So, if you're a
15 homeowner and you want to update your patio or your driveway or take... get a rain barrel we
16 have an incentive program currently. So, I think that was one of the questions you had earlier
17 but in regards, I think Pam's going to answer your question that you were just re-commenting
18 again. Do you want to talk about that?

19

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1 Ms. Boyle Rodriguez: Yeah, thank you. I do just want to address it and if you happen to look at
2 the plan you would see if but one item that I mentioned is integrating GSI language into all of
3 our planning documents. And so, one thing that we will be doing is creating some policies to
4 direct Staff to every time that they are working on a project to address how to integrate GSI
5 into their project so that it will be basically a new requirement for City Staff. If funding is not
6 available there's an understanding that it doesn't have... that it cannot happen every time but
7 we will be creating new policies in place.

8
9 For utilities, there are some extra challenges and constraints with that but we're working with
10 them. Are we addressing what you mentioned?

11
12 Commissioner Riggs: It's all good. I think my point is recorded and acknowledged so I appreciate
13 that.

14
15 Ms. Boyle Rodriguez: Thank you.

16
17 Chair Lauing: Commissioner... excuse me, Commissioner Alcheck.

18
19 Commissioner Alcheck: Thank you for your hard work, so two comments. I imagine that the
20 Council would prefer not to host the first unveiling of this completed proposal. So, it may be

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1 worthwhile for the Chair or the Interim Director to reach out to the Mayor and determine
2 maybe if this plan should meet and review at one of the Commission levels first. Just a
3 [unintelligible] and then the second thing I wanted to ask you about was I was under the
4 impression that Palo Alto had strict requirements regarding stormwater for single-family home
5 development. Because supposedly the public stormwater drain system was highly susceptible
6 to being overwhelmed. So, with respect to the intent to expand can you shed some light on
7 how the requirements you're contemplating expanding to single-family homes is different from
8 the current requirements; like requiring bubblers to be over 10-feet away from the property
9 line? I don't think we have a code that allows for example roof water to go down into the street
10 directly. I think it has to be surfaced maintained in a bubbler first and then potentially if it's
11 overflowing onto the site. So, what have you guys been contemplating in expanding that?

12
13 Ms. Boyle Rodriguez: There are some separate Public Works engineering requirements about
14 the bubbler that you mentioned. Then there is a push to keep runoff on site. I think we just
15 want to push it a little bit further. There're some various things that can be done like
16 disconnecting downspouts during a development project. If a project is a particular size, at least
17 from the stormwater side, I'm not going to comment on engineering requirements but what we
18 want to do is just reduce that threshold requirement. So, for single-family homes in particular
19 as you asked if they are at least 2,500-square feet or above, not including the landscaping, then
20 they do have to integrate 1 LID feature on their property. And so, we're trying to say well no

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1 matter what size your project is, as long as it's above 2,500-feet you have to keep all your
2 stormwater on site. And it's relatively similar to what's happening now, we're just trying to
3 widen the amount of projects that are having to do that. We're also hoping through just an
4 outreach component to try to get folks to disconnect their downspouts, even if they're not
5 doing a redevelopment project, it it's possible.

6

7 Commissioner Alcheck: Ok so it's... you would characterize... I'm just curious because I'm...
8 would you characterize the current code use of stormwater drainage into bubblers as
9 maintaining water onsite or is that... because I... when I think of a bubbler that's 15-feet from a
10 property line that starts overflowing, that's essentially trying to contain as much water as
11 possible and it really doesn't overflow very often right? So, if it's overflowing then it's further
12 maintaining the water on the site and table, is that really that... I'm only asking because I want
13 to understand if there's some other piece of this that I don't (interrupted)

14

15 Ms. North: So, there's a little bit more pieces to it. If there's a new development when they're
16 putting it, we'd actually probably require some kind of digging down, trying to get some area
17 where they can keep some of that stormwater on site. So just putting a bubbler in, all that does
18 it move the problem away from your foundation and then eventually it will just bubble up into
19 the existing storm drain system and there's really no capacity to take any of that stormwater.
20 So, one of our goals is yes, we say keep it on site which is as we know is almost impossible in

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1 Palo Alto when you're on clay. It has to go somewhere so it is going to eventually go into our
2 storm... traditional grey infrastructure but we're trying to slow down that flow. And basically,
3 not overload our system so we're still working on some of those items in terms of our code
4 changes. But we are going to be trying to strongly encourage more of the low impact
5 development requirements on residential. Right now, they only have to do one out of five and
6 we're going to actually try and require more when we go back to Council. Did that answer your
7 questions?

8

9 Commissioner Alcheck: Ok, yeah, alright well good luck.

10

11 Ms. North: Thanks.

12

13 Chair Lauing: Ok I have a couple questions as well, first of all, thanks for the comments on the
14 redevelopment. I thought that is where you plan to look at older stuff. I was on Parks [note –
15 Parks and Recreation Commission] for a number of years, that Commission and they're on a
16 regular... every park is on a regular cycle as you know. I believe it's 10-years, plus or minus, so
17 they are going to automatically look at that and whenever there's change, that's a perfect
18 opportunity to jump right in. And also, in the maintenance area, you might also have... that you
19 commented on here under a different page in the Packet. There might be an opportunity to

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1 sneak some things in during maintenance if it's severe enough maintenance so I'm glad that
2 point was brought up.

3

4 Over on Packet Page 10, I was kind of interested in the scope of what we're not fixing. GSI can
5 be designed to provide adequate capacity for all size storms. So, it's kind of begs the question
6 of what storms are we not covering now without it or are you just saying that... did you find it?

7

8 Ms. Boyle Rodriguez: So, you're asking what size storms are we not treating with GSI?

9

10 Chair Lauing: Yeah.

11

12 Ms. Boyle Rodriguez: Typically... well GSI could potentially treat very large storms if there's
13 enough room but a typical GSI feature that might be at an intersection or something like that
14 usually just treats storms that are maybe 1-inch storm... 1-hour 1-inch storm. Luckily in our area
15 that's about 85 percent of the time so we could [unintelligible] (interrupted)

16

17 Chair Lauing: I was going to say you're probably going solve for the higher end of the bell curve
18 but not every tip of every size storm, correct?

19

20 Ms. Boyle Rodriguez: Exactly.

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Chair Lauing: That's all I just wanted to get reassurance on. That's plenty, thanks and then the other thing is when you talk about... let's see... funds on Page C of 6. Isn't this going to be... isn't the standard funding generally going to be CPIs [note – CPIs] through the City or are you saying that that's a minor part? I'm just trying to get a weighting of where all the funding might come from.

Ms. Boyle Rodriguez: Well for CPIs it may be easier for the design and construction to add that to the CIP Budget.

Chair Lauing: Right.

Ms. Boyle Rodriguez: So, if we want to construct maybe for a park's maintenance project like you mentioned or something that doesn't have a large CIP Budget, we might want to pull some funds that are allocated for Green Stormwater Infrastructure from our Stormwater Fee for additional GSI. For example, for our PSB we're going to (interrupted)

Ms. North: Public Safety Building.

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1 Ms. Boyle Rodriguez: Public Safety Building, we're going to put in some additional GSI to treat
2 some of the street runoff and that wasn't covered through the CIP Budget.

3

4 Chair Lauing: Yeah.

5

6 Ms. Boyle Rodriguez: The really high cost with GSI is maintenance and we're not able to cover
7 that with CIP Budget. You know maintenance is difficult if... since you were on the Parks and
8 Rec. Committee [note – Commission] you know that it's difficult to cover maintenance over
9 time. So, we're really hoping to figure out a good long-term funding source for that.

10

11 Chair Lauing: It's impossible to ignore the maintenance and that's always where you look to
12 save money which is the wrong answer.

13

14 Ms. Boyle Rodriguez: Yes.

15

16 Chair Lauing: So, you're going to face the exact same issue here.

17

18 Ms. Boyle Rodriguez: Exactly.

19

20 Chair Lauing: So, I figured this is going to be reoccurring CIPs that have to do the maintenance.

-
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Ms. Boyle Rodriguez: We're still trying to determine how to handle that.

Chair Lauing: Ok. Great, excellent report, it seems like you're right on top of it. Did anybody else... is there another question here? Oh, Commissioner Summa.

Commissioner Summa: Thank you. Since Chair Lauing brought up the funding I was told by a member of the public that there's state reimbursement for these kinds of improvements. Is that something that's accurate and are we going for that or?

Ms. Boyle Rodriguez: There's a revolving fund that provides loans and then there's grants through the... like Proposition 1 right now that is active that provides grants. There is no other reimbursement type method. Could you be referring to grants or?

Commissioner Summa: No, I don't know exactly what (interrupted)

Ms. Boyle Rodriguez: Ok.

Commissioner Summa: This member of the public was referring to but since the funding source was brought up, I thought I'd just ask but to your knowledge there isn't?

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Ms. Boyle Rodriguez: No.

Commissioner Summa: Thank you so much.

Ms. Boyle Rodriguez: Thanks.

Chair Lauing: Ok thank you very much.

Ms. Boyle Rodriguez: Thank you very much.

Ms. North: Thank you very much for your time.

Chair Lauing: Ok.

Commission Action: No action was taken on this item.

Action Items

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

- 3. Public Hearing: Recommendation to the City Council of an Ordinance Amending Section 18.18.120 (Grandfathered Uses and Facilities) of Chapter 18.18 (Downtown Commercial District) of Title 18 (Zoning) of the Palo Alto Municipal Code (PAMC) to Adjust Regulations Relating to Noncomplying Facilities. California Environmental Quality Act (CEQA): This Ordinance is Within the Scope of the Comprehensive Plan

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1 Environmental Impact Report (EIR) certified and adopted on November 13, 2017 by
2 Council Resolution No. 9720; the Ordinance is Also Exempt From Environmental
3 Review, Under CEQA Guidelines Section 15061 (b) (3). For More Information, Contact
4 Amy French at Amy.French@cityofpaloalto.org
5

6 Chair Lauing: The next agenda item is Number Three which is a public hearing on
7 recommendations for amendment to 18.18.120 of grandfathered uses and facilities. So, do we
8 want to have a presentation first and then we'll do public comment?
9

10 Mr. Jonathan Lait, Assistant Director of Planning: Thank you Chair Lauing and Commissioners,
11 just a brief presentation. The Planning... the Municipal Code establishes regulations that tells us
12 how to address buildings and uses that no longer comply with the City's Codes. Whether it be
13 development standards or permitted uses and for the downtown area those regulations are
14 specific to this part of the City. And so... and that is the focus of the regulations that we're
15 discussing here this evening.
16

17 Every once in a while, these codes will be updated to reflect changes in policy and this subject
18 code section was last amended in early 2016. And at that time, we were seeking to allow for
19 minor changes to grandfathered buildings to improve pedestrian-oriented features at the
20 ground level. Last summer we learned that there was an inadvertent change to that code
21 section where provisions related to non-complying uses was continued into the grandfathered
22 building or facility provision. And this was not one that was highlighted in the Staff report or

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1 recognized in the ordinance through our typical means of striking out language or underlining
2 language. There was no discussion about it from Staff and at the Planning Commission or at the
3 City Council. And as I mentioned we learned about that change last summer and the
4 Commission no doubt has heard how this change has impacted a number of properties
5 downtown. The President Hotel, of course, being one of them but there's also a number of
6 other properties that have been impacted and importantly this ordinance isn't about one
7 particular property. It is about policy direction that effects downtown properties as a whole and
8 so the Commission's deliberation should be focused on that broader policy guidance.

9
10 On December 10 Staff presented an ordinance to the City Council to revert the language that
11 had inadvertently changed back to the pre-2016 language. And it was during that conversation
12 that the City Council directed that the Planning Commission consider this ordinance and also
13 include a provision that would... to the extent that it is permissible under law preclude the
14 conversion of residential area to non-residential area. And the ordinance that has been
15 presented to you this evening does two things. One it restores the language... the pre-2016
16 language and it includes this provision that the City Council had direct it be included in the
17 ordinance precluding this conversion of residential areas in grandfathered buildings from being
18 converted to non-residential area.

19

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1 The Staff reports established a process by which one could assert a waiver to be... to remove
2 property... rental property from the market, often sighted as the Ellis Act, on that and the
3 process included a review by the Director; which as the Commission knows is the typical
4 process in our review procedure. That the Director reviews and makes decisions on a number of
5 applications subjects to appeal to the City Council.

6
7 We, of course, have heard a lot... received a lot of testimony or emails and correspondence
8 from the community. We've heard some concerns about that particular approach and in
9 hindsight, we couldn't agree more that anybody who'd be seeking a waiver under this type of a
10 provision, there ought to be a public hearing and an opportunity for public comment on that.

11
12 So, there is a... at the dais is an At Places memo and I believe there are copies that are provided
13 in the back room where we retain the same waiver provision. But anybody seeking to take
14 advantage of that would go to... would make that request to the Planning Commission and the
15 Planning Commission would make a recommendation to the City Council. The Planning
16 Commission would, of course, have a noticed public hearing on the matter and then the
17 recommendation would go onto the City Council for to be accepted or if they wanted to
18 schedule their own public hearing, they could do that as well. So that's what's being presented
19 to you this evening. We're happy to answer any question that comes up from the Commission,
20 thank you.

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Chair Lauing: So, I think we want to take public comment next.

Mr. Lait: Yeah, typically that would be... unless the Commission has any clarifying questions from the presentation.

Chair Lauing: Right but I want to make sure that everyone knows about this At Place Memo because it's... we discussed it yesterday at quite a length at the pre-meeting to come up with some different options based on certainly my concerns and the public concerns about how that ordinance provision was written up. So, it's quite a bit different now and there are copies back there for you to take a look at.

So, we're going to proceed with... there's no copies? Albert?

Mr. Lait: No, there must some copies.

Chair Lauing: I'm sorry.

[note – female]: (speaking off mic) The copies have run out.

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1 Mr. Lait: You guys have run... ok, so we can... yeah, we can produce more copies.

2

3 Chair Lauing: Ok.

4

5 Mr. Lait: You know the other thing I can do actually is (interrupted)

6

7 Chair Lauing: Put it on the screen?

8

9 Mr. Lait: One of us can read it into the record.

10

11 Chair Lauing: Ok. You don't... you can't put it on the screen can you Jonathan?

12

13 Commissioner Waldfogel: (off mic) How long is... how much public speakers?

14

15 Mr. Lait: We're going to make some copies.

16

17 [note - several Commissioners were speaking off mic]

18

19 Chair Lauing: Ok so we're going to proceed with public comment. Are these in order now?

20

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1 Commissioner Waldfogel: [unintelligible – off mic]

2

3 Chair Lauing: I don't know, I'll just call this one first.

4

5 Commissioner Waldfogel: Yeah.

6

7 Chair Lauing: Ok the first speaker is Herb Borock. We're going with 3-minutes.

8

9 Mr. Herb Borock: Good evening Chair Lauing and Commissioners. I urge you to recommend to
10 the Council that they make no changes to the existing code. You've been presented with two
11 changes, one is the new Subsection F. That's not probably something for Staff to be deciding or
12 a Commission to the Council, it's a legal question. If an applicant has a problem with the code
13 and its implementation by the City, the proper place to handle those legal questions is in court.

14

15 The other changed made is to delete the language that currently exists relating to continued
16 use in occupancy which is in B... at the beginning of 2. Perhaps someone thinks that the City Hall
17 or 252 University Avenue or Page Mill Square could be turned into housing but they neglect the
18 fact that it doesn't have the plumbing that's needed throughout the building for individual
19 residential units. If someone wants to convert a commercial building to a residential building

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1 and the commercial buildings exceed the current zoning limits, they're going to do what they
2 do whenever you convert a unit like that. You demolish it and you build a new one to code.

3

4 We've even presented the Council and the Commission with a story that Staff just learned of
5 this change in the Zoning Code because Council adopted it in 2016. The Council makes
6 adoptions to the Zoning Code and changes on recommendations from the Planning and
7 Transportation Committee... Commission. Every one of those reports received in September
8 and October of 2015 on the first update to the Zoning Code was signed by individual Staff
9 members at various levels. And the approval from the highest-ranking Staff member was from
10 Jon Lait. To come to you now in the passive voice and say oh, we just discovered these changes,
11 I don't believe it. The only people who voted to retain the original Staff recommendation to the
12 Council were Council Members Fine and Tanaka, who were the Chair and the Vice Chair of this
13 Commission when those zoning updates were approved. They are the persons most
14 knowledgeable of what was coming before the Commission because as Chair Lauing said prior
15 to the meetings there are pre-Commission meetings. And in those days, it was habit and
16 custom both the Chair and the Vice Chair to do so I say no changes. Thank you.

17

18 Chair Lauing: Ok thank you. The second speaker is Dave Lanferman, 3- minutes.

19

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1 Mr. Dave Lanferman: Good evening honorable Chair, Members of the Commission, my name is
2 Dave Lanferman, I'm a land use attorney through Tan and Tucker here in Palo Alto. I wanted to
3 appear briefly here this evening just to follow up on the letter that we submitted earlier today. I
4 apologize for not getting to you at least yesterday but there were some delays in production.

5
6 This is an issue that we have been looking at since the wording in Section 18.18.120 was
7 focused on last summer. We, along with City Staff, researched the City archives. It appears that
8 the language of this section was changed in 2016 between the first reading of the ordinance
9 and the second reading. So, this did not occur in the normal course of well thought out, well
10 deliberated City legislation. We think the Staff report was excellently well prepared and makes
11 a sensible recommendation to restore the language to the way it has been in Palo Alto prior to
12 2016 and as it is in almost every other City in California. Where Cities try to encourage property
13 owners to bring their non-conforming facilities into conformity without this inadvertent
14 restriction on continuing the same use. In Palo Alto as in many Cities changes in the market,
15 changes in the economy, changes in the community indicate that buildings that were built 40-
16 years ago for one purpose may no longer be suitable or in the public interest to be locked into
17 that use forever. So, we support the Staff recommendation to delete the language in 18.18.120
18 (b).

19

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1 With regard to the second part of this, however, that is the City Council in asking Staff to look at
2 this gave them a virtually impossible task in terms of trying to... it appeared that the Council
3 was hoping to take measures that would help preserve residential facilities in the downtown
4 area notwithstanding the obvious conflict with the General Plan. State law preempts this area
5 and ties the City's hands. A property owner who has residential property who wants to go out
6 of the residential rental business has an absolute right under state law to do so and shouldn't
7 be required and cannot legally be required to go through a waiver process which the recently
8 produced changes would make even more cumbersome and time-consuming. This is a situation
9 where the waiver is required to be granted in nearly every case that a residential property
10 owner wants to change the use of his property. If a property owner is making residential use of
11 it and wants to change the use, this statute basically says you can't unless you apply for a
12 waiver and state law says but... and the City has to grant that waiver. It is kind of a pointless
13 exercise and we urge you to reject the second part of the proposal. Thank you. I'm available if
14 there's any questions on our letter.

15

16 Chair Lauing: Thank you. The next speaker is Winter Dellenbach.

17

18 Ms. Winter Dellenbach: Hi, I live in Barron Park, I... forgive me if my remarks a little ragged
19 tonight. I prepared for a different proposal instead of the (interrupted)

20

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1 [note – many people started speaking from the audience off mic]

2

3 Chair Lauing: Please take your discussion out of Chambers, thank you. Ms. Dellenbach?

4

5 Ms. Dellenbach: I prepared for a different proposed ordinance change so I very quickly tried to
6 shift some things around given the 11th-hour changes to the proposed ordinance.

7

8 First of all, I didn't understand the previous speaker. I didn't see anything in the proposed
9 ordinance that said that the waiver was mandatory. That anybody had a mandatory duty to
10 request a waiver, maybe I misunderstood.

11

12 I wanted to say that I very... I strongly support the first clause of proposed (F), the residential
13 portion of a grandfathered facility shall not be converted to non-residential land use or reduced
14 in area or a number of units. I support that.

15

16 The rest of the proposed ordinance I very much do not support around the ability to request for
17 an applicant to request a waiver and I have several reasons why I don't support it. And I
18 probably have more reasons had I had more time to prepare for the new proposed ordinance.

19 One reason that I don't support is that the waiver applies to all of Title 18. All of Title 18, that is
20 our entire Zoning Code. That is a sweeping, sweeping change in this proposed ordinance so it's

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1 not just to the bit of the code that is before it but to the entire Zoning Code. And I don't even
2 know what consequences that has and you don't either. It also adds Title 21 which has to do
3 with condo conversion. I don't know what consequences that has. Furthermore the only law
4 named by Staff in the Packet is the Ellis Act yet in all the times that this has been discussed at
5 City meetings, never has a specific clause of the Ellis Act ever been articulated. I want the
6 specific area of the Ellis Act that presents a conflict or area of redemption articulated; the exact
7 section. It's not enough to just say there's a conflict. We need actual information from the City
8 about that. Furthermore, the Act acts as a cancelation clause meaning that if you have the
9 waiver there, it cancels out the first part of (F), the prohibition on being able to... of the
10 conversion and that just seems non-sensible to me. I'm almost done. We shouldn't, on the one
11 hand, prohibit and on the one hand then take away the prohibition. Our housing is valuable and
12 its one of the highest priorities in the City so this is an internally contradictory proposal. I'm
13 almost done.

14
15 Finally, the waiver will have an adverse impact on housing in this City in the downtown area if it
16 pass... if you pass the waiver part of it. Only pass the first part of it, please do, and thank you. I
17 could have said more but thank you.

18
19 Chair Lauing: Ok thank you. The next speaker is Roberta Ahlquist followed by Mary Sylvester.

20

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1 Ms. Roberta Ahlquist: I'm speaking on behalf of the Low-Income Housing Commission of the
2 Women's International League for Peace and Freedom, the peninsula branch. I was pleased to
3 see that you've made some effort to respond to some of the citizen input. In fact, significant
4 responses but it still not enough. A waiver should not be used to address this issue, it's too
5 broad, it's too expansive as other people have said. We're concerned about low-income
6 housing, about below market rate housing. We're losing this every day as people get evicted
7 and new projects go up and there's no recourse for these tenants. Developers should not be
8 favored over tenants. Tenants represent nearly half the residents, half the population of Palo
9 Alto. We need to be inclusive and all of our actions have public hearings, transparency, and our
10 position is that we reject this waiver as a solution to the issue. Housing is needed, rental
11 property is needed. The folks at the President Hotel still are trying to find proper housing, not
12 elite, fancy hotels.

13
14 I would recommend that all of you take a look at Randy Shaw's book, Generation Priced Out.
15 Palo Alto doesn't fair well in this book. Its written by a lawyer who's concerned about housing
16 in the Bay Area and his position is that homeowners often times do not seek to support
17 tenants' rights or housing. And Huntington Beach was just recently sued because there are an
18 extreme example as a City who's done nothing about serving the needs of tenants.

19
20 So, our position is make no changes to the existing code, thank you.

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Chair Lauing: Thank you. Mary Sylvester followed by Neva Yarkin.

Ms. Mary Sylvester: Good evening Commissioners, I'm Mary Sylvester, a 41-year resident of Palo Alto. I to have prepared a different speech to deliver tonight so this is going to be somewhat extemporaneous. I'm here to urge you Commissioners to reject Planning Staff's proposal that I believe favors developers and property owners over the best interest of residents; 50 percent of whom in Palo Alto are renters. We have heard City Council decry for years the affordable housing shortage in this community. Now we are ready to let private interest trump the public good. This waiver would allow developers and owners of private interest to essentially get a free pass by putting in writing that the Grandfathered Facility Law conflicts with state or federal law. I appreciate that Staff has now modified their proposed ordinance to include the PTC and Council in this review process but I still urge Commissioners and Council to leave the ordinance as it is. The waiver process is much too broad and it's not a solution to our housing crisis.

And I have to say this, on a moral and ethical level I am infuriated by AJ Capital and how they have treated the tenants at the President Hotel. I think its an insult to those fine individuals who have given much to this community as well as to the City of Palo Alto. That they can feel that they can just treat this community in such a deplorable manner. They've used tenants of

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1 the President Hotel in what I see as a shameful manner, as pawns to get to the Council to get
2 the deal that they wanted. I believe going forward that the City needs to pay much closer
3 scrutiny to who we do business with. Thank you very much.

4

5 Chair Lauing: Ok thank you. Neva followed by David Adams.

6

7 Ms. Neva Yarkin: Neva Yarkin, I live on Churchill Avenue. I urge the PTC to reject a proposal by
8 Staff that would allow new waivers, such as the President Hotel, to change from apartments to
9 a luxury hotel. Wasn't enough noise raised by the community against this commercial
10 development? Don't we have enough hotels in Palo Alto? We need more housing, not more
11 commercial developments or hotels or office space downtown. That's my two-sense worth,
12 thank you for your time.

13

14 Chair Lauing: Thank you. David Adams followed by Terry Holzmer.

15

16 Mr. David Adams: Honorable members of the Planning Commission (interrupted)

17

18 Chair Lauing: Speak to the mic, please. Speak into the mic.

19

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1 Mr. Adams: Honorable members of the Planning Commission, is that better? I agree with
2 everything everyone has said from the attorney for AJ Capital. Let's be clear about this, this is
3 about the President Hotel. Converting it back to a hotel and thereby destroying 75-units of
4 affordable housing, much-needed units in Palo Alto. I don't think there should be any change to
5 Title 18 but if there must be then all this business about the waiver needs to be deleted. So that
6 clause (F) should read, the residential portion of any grandfathered facility shall not be
7 converted to a residential land... sorry, converted to a non-residential land use or reduced in
8 area or a number of units, full stop. Thank you very much.

9

10 Chair Lauing: Thank you. Terry Holzmer followed by Suzanne I believe it says, Keehn.

11

12 Mr. Terry Holzmer: Good evening Commissioners. I would like to encourage the Commission to
13 make no changes to the Grandfathered Facilities Ordinance that I believe would assist
14 developers to convert or change residential housing downtown to other uses. The Section (F) of
15 the proposed ordinance which is the most controversial of course allows for a waiver process
16 but it's a waiver process that needs to either be vastly changed or scrapped all together. With
17 all due respect, City Staff is a valuable resource to the City but by itself does not truly represent
18 the voice of the residents, only the Council does and any waiver granted or not granted should
19 be fully vetted through a process that allows for the maximum transparency of the public and
20 to be approved by the Council itself. It is not clear as to why the City even needs a waiver

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1 process as far as I know the law allows Cities to preserve housing as it chooses. Even though the
2 Ellis Act has been quoted as an important reason for the waiver, this argument is very weak I
3 believe. I believe there's differences that still allow the City to have housing that has nothing to
4 do with the Ellis Act.

5
6 I would like to encourage the Commissioners to reject any changes to the transparent... to the...
7 I'm sorry, the Grandfather Facility Ordinance. Thank you.

8
9 Chair Lauing: Thank you. Suzanne Keehn followed by Peter Rosenthal.

10
11 Ms. Suzanne Keehn: Yes, I agree also with everybody that says we shouldn't change the
12 ordinance with any kind of a waiver. We've had recently in the last few months articles in
13 Investigating Reporting about how un-transparent this whole business has been. And I think
14 transparency is very important in that we need to always bring in the City... the residents as
15 well as the developer and we know we need housing. That was some... not just low-income
16 housing but moderate and maybe a little bit lower and that's what we need and we need that.
17 All those people that I heard talk were just great in being a very responsible and helpful
18 important citizen. So, I ask you to leave it as it is and we support housing, not more hotels
19 which I don't think anybody really thinks we need. Thank you.

20

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1 Commissioner Waldfogel: Chair Lauing just stepped out for a minute so it's Peter Rosenthal
2 followed by Jeff Levinsky.

3

4 Mr. Peter Rosenthal: Good evening Commissioners and thank you, I am a long-time resident of
5 Palo Alto, more than 45-years. I don't come to these meetings very often but this issue has
6 been so inflammatory over the past year that I felt I really needed to express my opinion. I'm
7 not an attorney so I don't understand the subtleties of land use law but I must say that I agree
8 with most of all the prior speakers except for the attorney for AJ Capital.

9

10 So, when I look at this ordinance my initial feeling is, we shouldn't change it at all but if there's
11 to be a change I think as the prior speaker said you need a lot of focus on transparency. And if
12 residents of an existing facility which is seeking a waiver or any change in their statues is
13 brought before the Commission or City Council, I think every resident needs to be alerted to
14 that fact. And not just by publishing it as a line item on the Council/Commission's agenda but
15 my direct communication with every resident and this has not happened in the past.

16

17 In addition, we're constantly, not only with regard to this issue but other City land use issues,
18 being threatened by the fact that the Ellis Act doesn't allow this or doesn't allow that. I really
19 wondered Jonathan and City Council, have we gone out and sought expert opinion on the direct
20 implications of the Ellis Act for each of the areas where it's been brought up as a reason, we

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1 can't do something. We haven't done that. I think we ought to spend the money to really
2 understand where and how the Ellis Act affect us so thank you.

3

4 Chair Lauing: Thank you. Next up is Jeff Levinsky followed by Fred Balin.

5

6 Mr. Jeff Levinsky: Good evening Commissioners and Staff. Peter just sort of gave my talk for me
7 but I'll try as well. First of all, I very much agree that the tenants of a building shouldn't wake up
8 and discover that a waiver has been granted and their residential use has been wiped out or
9 something like that. So, an important aspect of any waiver should be how the tenants are
10 notified properly. The waiver... as Winter Dellenbach mentioned, the waiver that's being
11 proposed is extraordinarily board. It would affect parking laws, it would affect all kinds of
12 aspects potentially of a building and I don't think that's really the intent. That if there is some
13 legal aspect that needs to be addressed the waiver rule should be very focused and narrow on
14 that. So, you're not creating an immensely broad thing that invites developers to take
15 advantage of that.

16

17 The Ellis Act keeps coming up and I've actually gone and read the Ellis Act. And I even went and
18 got a hold of the appellate decisions that is mentioned in the letter given to you today by AJ
19 Capitals representative. And I want to read you a quote from that because it's really instructive.
20 Here's what it says, it says... now the Ellis Act as you probably know takes... gives the owner of a

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1 rental property to the right to stop renting it out but it does not give them the right to change
2 the use of the property. Here's what the appellate court wrote, a City retained its traditional
3 police power to regulate the subsequent use of property after the property's removal from the
4 rental market. So, the Ellis Act does not present the threat that you've heard. It does not say
5 that someone has the right to leave the residential use of their property, to abandon that and
6 turn it into an office or a factory or a hotel. Nothing like that. Where that the case all over
7 California apartment buildings would have winked out of existence and been replaced by office
8 buildings or something. The Ellis Act does no such thing. It does not present the threat that
9 you've heard and in fact, I would appreciate if Staff would not present the threat that you've
10 heard. In fact, I would appreciate if Staff would not write in the Staff report the Ellis Act is the
11 reason that we have to fear this. They have [unintelligible] other state, no other federal law so
12 we have this extraordinary circumstance that there's actually no compelling legal reason
13 whatsoever for this waiver process.

14

15 There are some other problems with it and that is that we already allow people to go to the
16 Council through appeals or to go to court and have our laws overturned we have erred and
17 made inappropriate laws. We don't have to put a waiver at every single law in the City code for
18 this so why do it for this particular one? It invites people to take advantage of it rather than for
19 keeping our laws simple and clear.

20

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1 Finally, I agree with everyone who's pointed out we need to preserve housing. Existing housing
2 is the most affordable housing that we have so a process that undercuts that is the wrong kind
3 of process. Thank you.

4

5 Chair Lauing: Thank you. Fred Balin and next is Ann Marquart.

6

7 Mr. Fred Balin: Thank you, a couple of comments. Number one is having changes like this At
8 Places is something that we have to do something about. We should have a process in the
9 Planning Commission where the public is notified when agendas to a Planning Commission
10 [unintelligible] are being released. And then if there are substantive changes to the agenda or
11 Colleagues Memos coming At Places, things like this, that should be updated so the public can
12 know. It's really not enough time.

13

14 The other comment I wanted to make is a statement was made by Council Landformen [note –
15 spelling] describing what happened here at the Planning Commission at the City Council in 2015
16 and 2016. I'm going to have to watch the tape to get clear but there seems to be some
17 indication that Council gave some kind of indication that is what is being asked for or advised
18 here was discussed. That is not the case. This item came to the Planning Commission on... well,
19 it was part of 60 items that came to you over four meetings back at the end of 2015. You did
20 not see the exact wording until the very last meeting and it's true it was not redlined so it was

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1 hard to notice. There was no discussion on the item for reasons I will bring up another time but
2 there was no such statement that I'm aware at Council saying that there was any indication that
3 the kind of action that we see now should have gone through. They were discussing and a
4 different aspect of that provision of the code. Thank you.

5

6 Chair Lauing: Ok thank you. Ann Marquart followed by William Ross.

7

8 Ms. Ann Marquart: Good evening, my name is Ann Marquart, I'm the Executive Director of
9 Project Sentinel which is a fair housing agency funded by the City of Palo Alto to provide fair
10 housing services. And there's a connection between fair housing, civil right protection, and
11 affordable housing. And that is when you have high income, middle income, and low-income
12 populations those lower income are going to be people with lower likely protected status under
13 the Fair Housing Law. Fair Housing Laws have protected categories of race, national origin,
14 disability, families with children, and other protected categories. Those categories are going to
15 be again found more in low-income populations than in higher income populations. And if a
16 municipality like Palo Alto severely limits... reduces the availability of any affordable housing for
17 its lower income population there's a possibility that that could be a civil rights violation. And
18 so, I would caution the City to be very careful in the zoning ordinances and any provision there
19 that would reduce the availability of affordable housing. So, I certainly am in agreement with
20 the other speakers when they talk about transparency and the desire to support and maintain

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1 affordable housing for our lower-income populations. We're in the middle of a housing crisis
2 and these protections are very, very important. So, I hope you take this into consideration,
3 thank you.

4

5 Chair Lauing: Thank you. Mr. Ross followed by Rainer Pitthan.

6

7 Mr. William Ross: Good evening, my names Bill Ross, I'm a resident and taxpayer. It's like to
8 raise a different issue with respect to this ordinance, the sufficiency of its environmental
9 review. Quite directly it's not dealt with in a Comprehensive Plan Environmental Impact Report
10 and could not have been because of the time of the project definition of that document. The
11 second basis offered for Environmental Review is the claimed exemption under CEQA
12 Guidelines Section 15.0.613. The first question would be which CEQA Guidelines? Let's read
13 that guideline and it says... let's assume that it's the old CEQA Guidelines section. It says the
14 activity is covered by the general rule that CEQA applies only to project which have the
15 potential for causing significant effect on the environment where it can be seen with certainty
16 that there is no possibility the activity in question may have a significant effect on the
17 environment. The activity not subject to CEQA. First of all, this is a Zoning Ordinance, by
18 definition, it's a project under CEQA and is subject to discretionary review. Secondly, any time
19 an exemption claimed its fragile, meaning if there can be a showing of any impact on the
20 physical environment and displacement of tenants, it's been stated time and time again to be

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1 that. You know I've tried to recall where I heard this fragility argument being raised first and
2 think it's with respect to a presentation given by a partner of the newest Commissioner, Nadia
3 Costa. And I didn't have time to look it up but it's either her presentation on the basics of CEQA
4 in 2012 where she discussed it or the same kind of thing that she did in 2006 in Los Angeles. But
5 it's well founded, well-established rule so regardless of the substance of this ordinance, the way
6 Staff's presented it in terms of compliance with CEQA is simply not supported either by the law
7 or substantial evidence. Thank you.

8
9 Chair Lauing: Thanks very much. Mr. Pitthan and next up would be Beth Rosenthal who at this
10 point is our last speaker.

11
12 Mr. Rainer Pitthan: Hi, I'm Rainer Pitthan, and I have lived in and about Palo Alto since 1978. I
13 first really got... I noticed that it was doing on December 10th at the City Council meeting and I
14 was infuriated. This was a major change from the minor change as the lawyer recently, 5-
15 minutes ago, said but it was put on the City Council agenda in a very sneaky way. That if you
16 just read it you wouldn't notice but fortunately [unintelligible] email in that this is going on. In
17 the content what I noticed it mainly references to the Ellis Act of which I know a little a bit and
18 it tells a very interesting... that countries like German where I was a City Planner at one point
19 had something very similar and quite the same. The Ellis Act allows the owner to cease renting
20 out residences and instead have [unintelligible] become owner-occupied or company-owned

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1 housing, only housing if the City allows it. The City has a lot of police power there. On the
2 surface, it really looks [unintelligible] like proposal like on December 10th, crafted to allow AJ
3 Capital to sidestep many City Laws and replace existing housing in the building with a hotel.
4 Even if that ordinance was a mistake at 5... oh many years ago, originally, I think now it really is
5 close to what the majority of people in Palo Alto want. As evidence to [unintelligible] successful
6 collecting of signatures to reduce the CAPS by half which for the people who organized this was
7 a compromise. It was a large minority who actually wanted to bring it to zero so I... in order to
8 enable a more housing to be built. So, I strongly advise... recommend that the waiver not be
9 granted. Thank you.

10

11 Chair Lauing: Thanks very much. Beth Rosenthal.

12

13 Ms. Beth Rosenthal: Good evening. I wrote my comments according to my understanding of the
14 waiver and when I came to this meeting tonight, I see it has been revised. So, if my comments
15 don't exactly fit the current version, please forgive me. I'm writing to urge you to reject the
16 Staff proposal that would make it easier for downtown residences, such as the President Hotel
17 Apartments, to become hotels or offices. Supporting this waiver process significantly and
18 unfairly favors developers interests over those of residents. Although in the past the City
19 Manager and members of the City Council have denied any covert action on their part that
20 supports the effort of AJ Capital to succeed in converting the President Apartments into a hotel.

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1 This waiver smacks of the promotion of AJ's interests without every designating them by name.
2 In my view, inherent unfairness and subterfuge demonstrated here is mind-boggling. If this
3 waiver is granted no on not tenants, the public or the press would be notified that a waiver was
4 being sought. There is no requirement for a public hearing and tenants may not even be aware
5 that a waiver has been granted until their lease expires and it is too late to appeal. The
6 suddenness of this process is reminiscent of the recent President Apartments diabolical. An
7 event which many residences have spoken against. Please do not support any recommendation
8 that jeopardizes our housing stock, supports special interests and does not allow for an open
9 and transparent government process. Thank you.

10

11 Chair Lauing: Thank you. We have one more speaker card, Iqbal Serang.

12

13 Mr. Iqbal Serang: Good evening Commissioners, my name is Iqbal Serang, I've lived in Palo Alto
14 for 35-years, I've lived in the President Hotel for 28. I also strongly support the retention of
15 housing and specifically the existing housing that is there. Me and several of the tenants who
16 are seniors, many are disabled, are even today faced with this problem of trying to find an
17 equivalent space outside within the downtown area of Palo Alto. It is very difficult. As you know
18 the pricing is outrageous, the ability for disabled people to utilize these spaces are limited.

19

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1 I wanted to agree once again and support the tenants... the residents that have spoken for
2 housing. We are facing a very large problem with housing today and it is unbelievable that we
3 can forward this idea where 75-units of housing that is compact can be eliminated forever. I
4 support some form of protection. I strongly feel that it is a responsibility for you, the
5 Commissioners, and for representatives on the Council to help protect us individuals who are in
6 dire need. Thank you very much.

7

8 Chair Lauing: Thank you and I... so that is that is the last speaker. I'd like to go back to counsel...
9 I mean legal counsel for potential comments because there were so many legal things that
10 were raised from attorneys and Staff and so on. And I think particularly with respect to sort of
11 the need for a waiver at all in the document or anything that you want to talk about in terms of
12 Ellis Act. You also say in the document... in our document Ellis Act or other state laws so just
13 anything that you heard that would clarify some issues for us on the dais relative to the public
14 comment.

15

16 Mr. Albert Yang, Senior Deputy Attorney: So, I don't have any general comments. I'm happy to
17 respond to specific questions from the Commissioners. I think there's... the At Places Memo
18 contains some elaboration of Staff's reasoning for including a waiver and the benefits of doing
19 so.

20

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1 Chair Lauing: Ok let's to Commissions... Commissioner Roohparvar.

2

3 Commissioner Roohparvar: So, I had a question for the City Attorney. The Ellis Act is a state law
4 right and it would preempt any local law, is that correct?

5

6 Mr. Yang: So, the Ellis Act is a state law that can have preemptive effect on local laws if local
7 laws conflict with the Ellis Act, yes.

8

9 Commissioner Roohparvar: So currently under our Municipal Code and our laws and whatnot,
10 how do we deal with the instances where we have state preemption of local laws? Do we
11 specifically call them out and have a waiver process and have it go through Council or is it
12 silent? I just want... do you get my question? How are we currently dealing with preemption
13 issues where state law comes in and deals with a specific issue and says (interrupted)

14

15 Mr. Yang: I think we do try to anticipate those issues if we can. I don't believe that there is an
16 overarching process that's established in our code. So, if there's an issue that Staff has not been
17 able to... did not anticipate that's something that either the Council could consider amending
18 the code or it's something that we could... would resolve through litigation.

19

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1 Commissioner Roohparvar: And then one more question. Currently, as it stands if somebody
2 applies for an Ellis Act conversion do, we currently require a waiver or hearings before the
3 Planning Commission or the City Council? Setting aside grandfather facilities, all of those.

4
5 Mr. Yang: No, so none of the City's laws inherently conflict with the Ellis Act. It will depend on
6 the way that they are applied to specific circumstances and often it's going to be the overlap of
7 a number of different laws that the City has on the books. So, I guess to answer your question
8 there's... no, there's no requirement simply because someone is bringing an Ellis Act
9 conversion. That anyone seeking a waiver most of the time our laws will not conflict.

10
11 Commissioner Roohparvar: Thank you.

12
13 Chair Lauing: Ok there was one card that came in simultaneously with the first Commissioner
14 speaking so I'm going to allow it. Annette Ross.

15
16 Ms. Annette Ross: (off mic) Thank you, [unintelligible – off mic]. Well better late than never.
17 Good evening Commissioners. I wish to add my voice to those urging you to not advance the
18 proposed Grandfathered Facility Ordinance Waiver. Public participation is important to the land
19 use process, laws protect it, and it is an important part of a basic pillar of our government's
20 checks and balances. If the Staff's proposal is accepted and approved the public is

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1 circumvented, so is City Council and so are you. The proposal provides for an appeal process
2 but all know that decisions made carry momentum and are thus harder to reverse. Should the
3 proposed process be approved, the Planning Director and the Planning Department will hold
4 the keys to the kingdom so to speak. I think it is not a good policy to give one person or one
5 department that level of discretion over our built environment. Even if here and there it might
6 be easy and nice to have a super easy path to approval. We are better off with a system that is
7 open and transparent. There are safeties built into the current system and those safeties
8 [unintelligible] be forfeited for any reason any department or any person. Thank you.

9
10 Chair Lauing: Ok so that definitely concludes the hearing part and we're going to go back to the
11 dais for Commissioner comments and the next light I see is Commissioner Templeton.

12
13 Commissioner Templeton: Thank you. So, I'm going to ask a slightly different variation of the
14 question you already hear. Is Section (F) legal and I mean this in a pretty straight forward way?
15 There're several different speakers who've said that they did not feel that it was legal. You have
16 reviewed it and you feel that it's legal or before presenting it, is that correct?

17
18 Mr. Yang: Yes, that is correct.

19

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1 Commissioner Templeton: Ok so if I understand correctly, City Council's direction to Staff was
2 to include a provision to require property owners to continue residential use of property. Even
3 if that property was zoned as commercial, is that correct? So, for example, the scenario that has
4 been brought up as an example tonight is a property with a residential use but it is zoned
5 otherwise, is that correct?

6

7 Mr. Yang: So, all property in the commercial downtown district is zoned in a manner that
8 allows mixed use.

9

10 Commissioner Roohparvar: Is mixed use?

11

12 Mr. Yang: Yes.

13

14 Commissioner Roohparvar: Sorry.

15

16 Commissioner Templeton: Thank you, I couldn't hear that either. So, what we're evaluating
17 here in Section (F) is to require property owners to maintain a residential use even though
18 other uses are allowed, is that correct?

19

20 Mr. Yang: That's correct for grandfathered facilities.

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Commissioner Templeton: For grandfathered facilities only? Ok.

Mr. Yang: Yes.

Commissioner Templeton: So, I'm trying to understand this scenario in which a waiver could be denied. Maybe it would be better to start in that direction. It seems like in the scenarios that have played through... that have been spoken here, it seems like they would be... they would have grounds at the state level in every case. Is that not true?

Mr. Yang: No, I don't believe that's true. So, a waiver would only be granted when an applicant can demonstrate the satisfaction of the Commission and the Council... City Council that without the waiver they would not... without the waiver, they would lose rights that are guaranteed by a state law. I think it's a fairly rare set of circumstances that our laws are going to conspire to create that situation. For... let me think about... I'm trying to think if I can come up with an example. So, if you have a grandfathered facility that has a residential use and you are trying to... you'd like to take that out of residential use, in most cases you are able to simply demolish that building and rebuild it to code. So, it's no longer non-conforming and then you can have a commercial to the extent that's permitted under the code.

-
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1 Commissioner Templeton: Great that you anticipated my next question was does this prevent a
2 developer or property owner from demolishing a building?

3

4 Mr. Yang: Nothing in the code section before you would prevent that.

5

6 Commissioner Templeton: Do you think that if we include it in our code it would encourage
7 property owners and developers to demolish historic buildings rather than negotiate?

8

9 Mr. Yang: So, we have a separate section of our code that protects historic buildings but for
10 simply buildings that are not conforming because they are too large, I think in general the policy
11 of the City's code is for those buildings we'd prefer those buildings to be compliant. And so, if a
12 non-complying building that was too large was demolished and replaced with a complying
13 building, we would see that as a net positive change.

14

15 Commissioner Templeton: So, you don't see demolishing a building as a workaround if a
16 developer wanted to bypass this process?

17

18 Mr. Yang: It's possible unless there was another law such as the Historic Preservation Law that
19 prevented it.

20

-
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1 Commissioner Templeton: Ok, I have a couple more questions. New laws are constantly being
2 passed with regards to housing and housing protection at the state level. Is this written in such
3 a way that you feel that it would have longevity and be able to flex as the new laws... is that...
4 was that kind of the intention of Section (F)?

5

6 Mr. Yang: Yeah, absolutely. If state law were to change this, as written, would adapt to that.

7

8 Chair Lauing: Speak up.

9

10 Mr. Yang: Oh, I'm sorry. Yes, if there were to be a change in law the ordinance is written to be
11 able to adopt to that situation.

12

13 Commissioner Templeton: Ok and some of the speakers have mentioned that they felt the
14 ordinance would reduce low-income housing. Do you anticipate that being a side effect of this
15 the way it's written?

16

17 Mr. Yang: No, I don't believe so.

18

19 Commissioner Templeton: What would prevent it?

20

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1 Mr. Yang: What would prevent?

2

3 Commissioner Templeton: In what ways does this protect instead of dimension low-income
4 housing?

5

6 Mr. Yang: So, it doesn't really have anything to do with low-income housing.

7

8 Commissioner Templeton: Ok. Alright and I just also want to call out a thank you to both of you
9 for... and the Staff for incorporating the feedback. I read many of the letters that came in and
10 shared some concerns that we've heard tonight. And it was an improvement to see the way
11 you've changed the wording so thank you for doing that. I know it was last minute but it's been
12 very useful so thank you. That's the end for me.

13

14 Chair Lauing: Is that all?

15

16 Commissioner Templeton: Yeah.

17

18 Chair Lauing: Commissioner Summa.

19

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1 Commissioner Summa: Thank you, Staff, and thank you, everyone, who came out tonight. I
2 have a bunch of questions first for Staff. One of the members of the public, the attorney for...
3 representing AJ Capital stated that the change to the code that was unintentional happened
4 between the first and second reading at City Council level of the ordinance. Is that true? Do we
5 know that?

6

7 Chair Lauing: No, that's not consistent with our understanding.

8

9 Commissioner Summa: Ok thank you. So, I have the Ellis Act here, I've read the Ellis Act, I think
10 we all know I'm not an attorney but I talked to four attorneys and there are two things I'm
11 pretty sure of in lay terms about the Ellis Act. One, it allows you to leave the rental market and
12 two, it does not govern other local zoning laws. So, I would like to... lets clear it up, I would like
13 you to point to the exact section of the Ellis Act that you're concerned about in the second
14 paragraph on Packet Page 17.

15

16 Mr. Yang: So, I'm not going to speak on the record about attorney/client privilege matters.

17

18 Commissioner Summa: Oh sorry, I couldn't quite hear you, I'm sorry.

19

20 Mr. Yang: I can't get into attorney/client privilege issues on the record.

-
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1
2 Commissioner Summa: The Staff report uses the Ellis Act... I can read it with my other glasses
3 says blah blah blah blah conversions of residential portions and non-compliant facilities
4 from converting to non-residential area unless a waiver is received from the City due to a
5 violation of state or federal law, i.e. the Ellis Act. Further down on the same page in the body of
6 Letter (F) you mention again that there might be with regards to the waiver adjustment that
7 there might be other federal or state laws that are... that basically the first paragraph of... the
8 first sentence of Letter (F) would violate. So, I don't understand which client you're talking
9 about but maybe then Interim Planning Director Lait could address the Ellis Act claim in our
10 Staff report because I just don't understand it.

11
12 Mr. Lait: I'm sorry I'm not the expert on the Ellis Act and I would refer to our counsel
13 appointment City Attorney's Office on that.

14
15 Commissioner Summa: But the City Attorney just said he couldn't answer the question and
16 that's what we're basing some of the changes and what we're considering tonight on.

17
18 Mr. Lait: So, I hear your... we both hear your question, we understand it, and it's not a question
19 that we're going to be able to answer at this moment in this forum.

20

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1 Commissioner Summa: Ok.

2

3 Mr. Lait: So, you can... it's fine to question that, I have no issue with that but what we're telling
4 you is that we're not able to answer that question right now.

5

6 Commissioner Summa: Ok well that... I (interrupted)

7

8 Mr. Lait: And so, if you have other questions that... we can answer (interrupted)

9

10 Commissioner Summa: For the record, I find that astonishing but I don't think... if there's any
11 violation of the Ellis Act that we would be in danger of violating here. Additionally... and I do
12 appreciate that because I... suppose of letters and emails received and concerns of the
13 community that you changed this but on the other hand, the flip side of that is that At Place
14 documents are very hard for us to vet properly and the public has no idea they are coming. So,
15 thank you for that but it does have kind of a dark side too. So, another thing I don't understand
16 is the addition of any provision of Title 19 and Title 21 in Letter (F) and maybe you can explain
17 that. And why is Title 21 included here at all? Is it because of the Condo Conversion Law?

18

19 Mr. Yang: Yes, that's correct. So, as I explained earlier often it's a combination of different laws
20 that act together that if there were going to be an issue would create that issue. And so, this is

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1 written in a way that is flexible enough to allow the City Council to choose which avenue they
2 think is the most official for the City.

3

4 Commissioner Summa: I have another question, normally when a Director's decision... when an
5 applicant feels a Director's decision is in violation of either an interpretation of our own code or
6 other laws that supersede ours like state and I guess federal too. That applicant has a right to
7 appeal through an appeal procedure that's laid out in our code very clearly. Why wouldn't we
8 just use that same process that we generally use for any applicant that felt they were being
9 treated in a way that was not consistent with laws as opposed to the waiver process if that
10 makes sense?

11

12 Mr. Yang: So, I think the process that you are suggesting would that in the event that an
13 applicant is ascertaining that there is some presumptive state or federal law that requires the
14 City to not enforce on its local laws. That would then lead the Council... put the Council in a
15 position of on an Ad Hoc basis in the appeal deciding to not apply one of its laws without there
16 really being a process spelled out for how that decision is made. So, I think this is an attempt to
17 make that... to have a more transparent process for when that kind of change is being
18 requested and for that kind of decision to be made.

19

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1 Commissioner Summa: So, I appreciate that the changes that were presented At Places do
2 actually provide for a public process but I still don't feel like I'm getting very clear answers to
3 my questions here. I do have a question do we... does the Planning Commission have any
4 provision for a closed session item where it could exchange... you could feel free to enlighten us
5 on the portions in the Ellis Act you think this law would violate?

6

7 Mr. Yang: I'm sorry, off the top of my head I'm sure about a closed session but I am happy to
8 provide confidential advice.

9

10 Commissioner Summa: You're... I'm sorry?

11

12 Mr. Yang: I'm not sure about a closed session off the top of my head but I am happy to provide
13 some confidential advice.

14

15 Commissioner Summa: Ok.

16

17 Commissioner Waldfogel: (off mic) We're allowed to have closed sessions.

18

19 Commissioner Summa: What?

20

-
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1 Commissioner Waldfogel: (off mic) I think we are allowed under our bylaws to have closed
2 sessions.

3

4 Commissioner Summa: Ok so I have to honest, what really isn't clear to me is the... why the
5 waiver process is advantageous over a normal appeal and the need for the waiver process at all
6 and the inclusion of all of Title 18 and Title 21. And I'm willing to accept Staff's... no ones
7 listening to me. I am happy to accept that this was done, the change was made erroneously and
8 that Staff would prefer, despite the fact that it's been a law on the books for 2-years, to
9 change....to strike the language in that's proposed to be stricken for the continuous use and
10 occupancy by the same use in Section (B) of 18.18.120. And I would be delighted to include (F),
11 the residential portion of any grandfathered facility shall not be converted to non-residential
12 land use or reduced in area etc. etc. but the whole waiver process to me seems inappropriate.
13 It seems like a special condition in our code put for this... for Number (F) only... Letter (F) only.
14 And it seems to be a much less erroneous and easier process both financially and just in terms
15 of difficulty for the applicant as opposed to addressing this in a legal way. So, I am
16 uncomfortable with that and I don't find that any of my questions have been... can be
17 adequately answered tonight with regards to some of these issues.

18

19 So, let's see, I was also moved by the member of the public who felt that this should have had
20 CEQA review. Especially when you think of the sweeping nature of potentially waiving all of

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1 Title 18 and all of Title 21. So, I would be ready if... to make a motion on this after we have
2 heard from the rest of our colleagues and made sure that everyone has had time to ask
3 questions. Thank you.

4
5 Chair Lauing: Any other first lights? Some people are coming with a second... Commissioner
6 Waldfogel.

7
8 MOTION #1

9
10 Commissioner Waldfogel: The comments that I was planning to make on this were that I'm
11 trying to understand what the intent... you know what the code intent is around grandfathered
12 facilities. Whether the intent is a code that encourages eventual replacement with
13 conforming... grandfathered non-conforming facilities where the intent is eventual replacement
14 with conforming facilities or the intent is something else. But I'm a little disturbed at their legal
15 assertion in the Packet that we can't discuss openly tonight so I'd like to make a motion to
16 continue this item to a closed session where we can understand what the implications are
17 because honestly, based on what I've heard tonight, I can't vote yes or no on this. Because I
18 don't have enough and I will not have enough information.

19

-
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1 Mr. Lait: So, we'll take a look at the closed session piece that's not a provision that has existed
2 for the Commission. It's not written into your rules of order and I don't think it's necessarily
3 appropriate to have a closed session. I appreciate that you're not... well, I would... we are doing
4 the best that we can to answer the questions. I'm sorry Commissioner Summa that you feel like
5 many of them were not answered. I feel like we were able to actually answer the questions,
6 maybe not to your level of satisfaction, including this one question dealing with the Ellis Act. I
7 don't have the Act in front of me, I can't interrupt it. Our attorney has reasons for not wanting
8 to or able to share information, I understand that but (interrupted)

9

10 Commissioner Waldfogel: Right but our job is to deliberate (interrupted)

11

12 Mr. Lait: I getting to your comment. My... what concerns me I guess is the premises or the
13 assertion that our again Council appointed City Attorney's Office is wrong and that's fine. You
14 can have that impression but from a Staff perspective this is the guidance that we rely on
15 (interrupted)

16

17 Commissioner Waldfogel: No but this isn't the... the assertion is that there's something in the
18 Staff report that is relying on information that we can't get to and it's impossible for us to
19 deliberate on this yes or no without getting that guidance and information. I mean there are... I
20 mean there's a spectrum of actions we could take. I mean one action I've been looking at the

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1 codes trying to suss out if there's some intent on grandfathered facilities. This is... from what I
2 can see this is basically an unintended case. We have cases for non-conforming uses and
3 conversions of non-conforming uses. We have codes around non-conforming facilities but we
4 don't really anticipate this case of a non-conforming facility converting from one use to another
5 use. I mean I've looked at 18.070, 18.18.120 and aside from this language that was inserted in
6 2016 there's really no other guidance. I can't figure out more broadly what our intent is for
7 grandfathered facilities. I mean I would say a CUP process is probably a good direction to take
8 but without getting the legal guidance that is somehow buried underneath this report, I can't
9 tell whether we're making a good recommendation, a bad recommendation. I mean it's
10 impossible for me to tell and so I honestly can't act on this tonight based on what we are being
11 told.

12

13 MOTION #1 FAILED DUE TO THE LACK OF A SECOND

14

15 Chair Lauing: Just a little bit of information, we are allowed to do closed sessions with the City
16 Attorney's Office and that's just an FYI. Another way obviously to get around this is to address
17 part of the memo without the waiver at all and say that this needs to go to Council because
18 they do closed sessions all the time as a routine matter. And it would be easy enough to
19 maintain your attorney/client privilege when you're dealing behind closed doors with the client.
20 So, we could act on the substance of it without the waiver and just move it along that way.

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Mr. Yang: Just to clarify one item, again our office is able to provide confidential advice but this matter would not fall within the litigation closed session.

Chair Lauing: Sorry get close to the mic again. It does not fall within what?

Mr. Yang: Sorry, this would not fall within the litigation closed session exception so we can provide confidential advice but we can't have a closed session discussion about this issue.

Chair Lauing: So that would make my other suggestion a bit more logical even, that it would have to go Council if they would choose to have a closed session on it.

Mr. Lait: Ok so just a couple points. This did go to City Council and as a part of their action minutes which is available online for December 10th, language very substantially similar to what is being presented to the Planning Commission including this waiver provision was presented to them. And it was Council's direction that we include this in the ordinance that we are presenting to you. I apologize for... if that's not included in your Packet, we should have provided that. So, the... I think I... so that's one point.

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1 With respect to Commissioner Waldfogel's comments, this Commission can decide that you're
2 not satisfied that... you're not satisfied with the waiver provision because you either don't
3 agree or you don't like what it implies or what it's for and that's a perfectly fine
4 recommendation that you can advance to Council. But I do think that the code does provide
5 guidance for us in terms of how we address grandfathered structures and grandfathered uses.
6 And prior to 2016, our code was pretty clear that you can convert any grandfathered building
7 from use to another conforming use. That provision was the provision that was changed so it is
8 in our code and other codes throughout many Cities the intent and desire when you have non-
9 complying facilities or grandfathered facilities to have those orderly changed and eventually
10 become a conforming structure or conforming uses in our code provides for that. And to the
11 extent that this Commission could contemplate that policy, what was written before, what
12 we're proposing and what Council had directed I think there's enough room for you to be able
13 to forward a recommendation on this matter putting aside the waiver issue. That's a point of
14 contention.

15

16 Chair Lauing: Commissioner Waldfogel were you done with your comments for now?

17

18 Commissioner Waldfogel: Yes, thank you.

19

20 Chair Lauing: Commissioner Alcheck.

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Commissioner Alcheck: Ok I have a few questions that I want to run through and then I'll make a comment. Am I understanding (F) correctly here that the 2016 change is or was somehow unintentional?

Mr. Lait: Yes.

Commissioner Alcheck: It was my impression that that language was the basis for the denial of the President Hotel application. Can you expand on that?

Mr. Lait: There's no application on file.

Commissioner Alcheck: Ok let me rephrase the question. Can you expand on my perception that that language was the basis for what might become a denial to the concept of converting the hotel to housing? I mean converting the housing to... converting the current use to a new use. And there was a letter drafted by our Planning Department right, that sort of took a position. I'm under the impression that that was the language we were relying on.

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1 Mr. Lait: So right I think I wrote a letter in mid-July to the property owner referencing this
2 section and asserting that they are... at present, it is not permissible to convert the existing
3 apartment units to a hotel use. Something along those lines.

4
5 Commissioner Alcheck: Is... where you under the impression at that time this was unintentional
6 language or did we have a different view on it?

7
8 Mr. Lait: So, we're trying to make sure that we're getting our... this was 7-months ago when we
9 did this legislative history on this. I don't believe I knew at the time I drafted the letter in July
10 that it was a legislative error. We knew what the code said and we'd communicated that based
11 on the plain reading of the code. It may have been after that letter had gone out that we
12 learned of the legislative... that the inadvertent change to that ordinance. We were trying to
13 trace that back as to where did that change take place and we discovered it as taking place
14 again inadvertently in 2016.

15
16 Commissioner Alcheck: Ok so I agree that with one of the comments that you made a little
17 earlier to a fellow Commissioner that it's clear that Council is directing Staff in lieu... in the
18 aftermath of what I would call the President Hotel fiasco. To propose code amendments that
19 would shield our meager supply of multi-family housing stock from conversion. So, one of my

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1 question is has Staff had the opportunity to study how other municipalities have attempted to
2 do this?

3

4 Mr. Lait: Attempted to?

5

6 Commissioner Alcheck: The language in the code proposal is one path I assume, potentially
7 several, that would shield housing stock from conversion under a certain circumstance. Is it sort
8 of your view that you've had ample time to appreciate what other options there are for
9 protecting our housing stock, in example the downtown, from conversion under any scenario?

10

11 Mr. Lait: So (interrupted)

12

13 Commissioner Alcheck: Conforming or non-conforming.

14

15 Mr. Lait: Right so I'll just take us one step back, I know there's been a lot of conversation about
16 a specific property or discussion about that but I want to remind the Commission that this is not
17 about a specific property.

18

19 Commissioner Alcheck: No, I mean in general.

20

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1 Mr. Lait: But you're asking me a specific question about housing laws and (interrupted)

2

3 Commissioner Alcheck: I would like to know if this in your mind is the best tool? If you've had
4 enough time to evaluate... there are other Cities who have other tools? Do we feel like we've
5 flushed out whether or not this is going to hold up in court? You know I want to understand if
6 Staff feels like they've had enough time to grapple with what I think is Council directed
7 direction... Council directed action to facilitate the shielding of our housing stock.

8

9 Mr. Lait: So again, this isn't an ordinance designed to protect housing. This is an ordinance that
10 allows... that addresses situations where there are grandfathered buildings and there is a use
11 that is being converted into another use. And so, we have instances downtown where a
12 restaurant wants to convert to retail and so... and there are other... there're half a dozen of
13 these types of these examples and if you'll just give me a moment to add some more context to
14 this issue for you. There are approximately 250 properties downtown (interrupted)

15

16 Commissioner Alcheck: How (interrupted)

17

18 Mr. Lait: There are about 55 percent of them, give or take a little bit, I don't have precise
19 numbers so let's call it half are non-conforming with respect to floor area, height, something
20 along those lines. And so half of that building stock downtown we're saying whatever your use

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1 is you have in there today you cannot convert it to another permitted use downtown. You
2 cannot go from retail to restaurant, restaurant to retail, personal service to any other thing.
3 There are approximately 13 properties downtown that are multi-family properties and so that
4 just adds a little more color to the scale of the challenge that we're up against. And so, when
5 you ask me this very specific question about housing, I have to keep coming back to this. This
6 isn't about protecting housing, there may be other tools available in planner toolkits to address
7 this. What we're trying to do is restore what was a policy that existed in our code to what it was
8 before and respond to Council direction to find a way to protect, to the extent permissible,
9 under state or federal law the protection of housing units and that's what we're trying to do
10 here.

11

12 Commissioner Alcheck: So, look I think you're contradicting yourself and I would suggest we
13 operate with cautious because if this is not about a broader sort of effort to protect housing,
14 then it sounds a lot like spot zoning. And I'm trying to have a conversation not about a specific
15 property, I'm trying to suggest to you that outside of this sort of very controversial site it's my
16 impression that while this is maybe impetuous to the discussion if that's the right word. There...
17 this feels like partly damage control and part of an effort to course correct right? So, you're...
18 you've suggested that we have this unintentional language which is causing conflict for a
19 number of properties, including a property that's very controversial for this community. But not
20 considering that specific property you're also including language in your original

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1 recommendation and in the revised recommendation that goes a step further and makes an
2 effort to protect housing. And what I'm asking you and I'll move on because I think we sort of...
3 it's moot now but what I was asking you is whether you felt like this is the best... whether
4 you've had enough time to review all the options for this secondary goal that I frankly think is a
5 part of your effort. So, I'm going to move on from that.

6

7 I actually really appreciate you getting more specific about the "55 percent non-compliance".
8 That wasn't in the Packet. The Packet identifies that there are 250 properties but we don't
9 really have a sense outside of the language that says a number of them. Outside of that
10 statement, we didn't really know how many of those 250 properties are potentially non-
11 complying so this 55 percent number I think is helpful. I think it would be equally interesting to
12 learn of the 13 residential properties, how many of those are non-conforming. I suspect you
13 probably know that. I guess my question is prior to 2016 change in language or Staff says they
14 recently learned of... so the notion that we recently learned that this language was added or I
15 guess at some point you realize that there is this language and it was the base for whatever
16 determinations you made regarding develop... any applications that might come. But prior to
17 that discovery that this language was there, did we approve permits in downtown for remodels
18 without regard to future or current use changes?

19

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1 Mr. Lait: Yeah, it's possible. We've tried to do that research and it's... we've not completed it
2 but there's a number of changes of Use in Occupancy Permits that get issued at the counter on
3 a daily basis so it's possible but I don't have an answer for you.

4
5 Commissioner Alcheck: Yeah so, I mean look I thought that... I figured that was going to be the
6 answer and I suggest that Council be mindful of the fact that we may have had a law on the
7 books that wasn't enforced. And if we didn't enforce it how will we defend against a legal
8 challenge that demonstrates selective enforcement. So, I think there are a lot of issues here
9 that this is not a forum exactly to determine which direction to take but that sticks out to me
10 like a big red flag.

11
12 Ok, so I'll start with a quick comment. I... there's some low hanging fruit here. The Staff report
13 as Interim Director Lait mentioned just now says there are multiple properties, 55 percent of
14 250, so let's figure 125 properties that might be subject to current code, right? And there are a
15 number... there are at least three or four that are identified in the Packet that are seeking to
16 remodel and convert from restaurant to retail. And I would recommend Council make the
17 change necessary to facilitate those changes. I don't think its tenable for us to be in a land use
18 environment where the Cheesecake Factory can't become a retail shop because they can't
19 remove their tables that are fixed or their kitchen or whatnot. So, I think the challenge here is
20 how to facilitate these non-controversial changes without opening the door to wide that our

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1 residential housing stock is depleted. And not to get too technical here but I think the issue of
2 whether any change we recommend today or that Council adopts in the near future whether
3 that could be applicable to an application that was submitted or an intent that was
4 demonstrated prior to this change is another legal conundrum, right? It's not clear that
5 anything we do tonight is going to affect the elephant in the room.

6

7 I think... so I'll be a little... I want to talk a little bit about the language that is proposed. I think
8 the language that places Staff... and this is the original suggested. I think the language that
9 places Staff in a position to determine the legal merit of a request for a waiver only invites
10 costly legal challenge. I cannot imagine... I think it would be naive to believe that an applicant
11 who submits a request for a waiver would simple accept Staff's conclusion and there's two
12 reasons I feel that way.

13

14 Mr. Lait: (off mic) We're past that [unintelligible].

15

16 Commissioner Alcheck: I know that but I want to make this point because you are pased that
17 but we may still recommend that so I just want to touch upon that recommendation here. The
18 reason I feel that way is because we're in a scenario now where the determination by Staff has
19 changed so much in 7-months that we are losing credibility.

20

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1 Let's talk about the updated language, I think that only makes matter worse. I think the
2 suggestion that the determination be made by Council politicizes a legal question. So now if
3 today we took a vote on whether AJ Capital could pursue it's interests here, we would... I don't
4 think it would work out for them. But does that... is that we are going to adjudicate our
5 determination of our Legal Code? No, it can't be because we're going to get sued and we are in
6 legal battles in so many areas that I think we need to start shoring up our assessment of how
7 much more litigation we want to invite. So, I think this recommendation is in many ways worse
8 because it politicizes what should be a legal determination. We should either stand behind our
9 code and let an application take us to court if they disagree or we shouldn't have that language.
10 But it's not... it doesn't make any sense why we would let the City Council make a
11 determination on whether the Ellis Act, for example, superseded our code. We either have no
12 waiver process or we don't restrict the change. And I think we need... let me just say this, don't
13 get me wrong, I don't suggest we simply make laws that we're not comfortable defending and
14 not also create paths to accommodate some flexibility but this is different. This is we don't
15 want any... a grandfathered facility that's residential to be converted and but if you think that
16 there is a law that would allow you to do that then request a waiver and we'll determine its
17 merit which again would certainly lead to legal action. And then I guess I agree with some of the
18 sentiments here, I don't really understand how that's different than any lawsuit that any
19 applicant could bring. I think you shouldn't get two tries, right? If the Staff is prepared to make
20 a determination at the desk that on its face this is a grandfathered use and it can't convert,

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1 stand by it. If not, I would suggest we need to accept if this can't be defended legally and this is
2 a huge, heavy, difficult pill to swallow, we need to accept that we weren't prepared for this.
3 That's what I think, I think we weren't prepared for this situation and now we're trying to figure
4 out a way to address it. And it feels like spot zoning, it feels like we're causing all sorts of
5 trouble for our retail establishments or restaurants, and I don't know that there is any easy
6 path for it.

7

8 My recommendation, I don't think we're likely to have... this is probably going to require a little
9 more discussion so I'm going to pass on the mic right now. My recommendation would be that
10 Council seeks the legal opinion that would essentially bolster the City Attorney's conclusion on
11 whether or not we can restrict grandfathered use from converting in this state with the existing
12 state and federal law. And if the conclusion of our City Attorney and outside counsel... let's pick
13 the best law firm, if the conclusion is no then we need to follow that pill and we need our Staff
14 to go back and figure out what's the best path... what are the best ways other municipalities are
15 protecting the conversion of their housing stock and then we need to codify that And we need
16 to be ready the next time somebody brings this sort of request and I think that the suggestion
17 that anybody in... well, I can't say that. But I certainly am not proud of what I suspect will be a
18 result of this whole situation. I don't think there's... it's impossible to be satisfied with this. I
19 have consistently been persuaded in our conversations encouraging affordable housing by the
20 options that would relax our limits and encourage the development of the very building that

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1 we're all very upset about. Those recommendations have not yet received the affectionate
2 embrace that I continue to hope for but I am frustrated. We are running... chasing our tails here
3 trying to solve a problem that may cost us way too much money and we'll lose and everyone
4 will look like they weren't paying attention. So that's all I have to say, that would be my
5 recommendation.

6

7 Chair Lauing: Ok I want to do a couple first comments... first round comments myself. Just to
8 kind of get clarity as I was reading this we talk about retail and retail like which is services as
9 being equal. And we obviously have the Retail Preservation Ordinance which happily includes
10 restraints so when you look at all that together it doesn't seem like we're reinventing the wheel
11 here to say a restaurant to go to a retail shop or a gym or whatever. I appreciate Commissioner
12 Waldfogel's comments that maybe we should also look at CUPs on a specific basis but that's
13 sort of the... as you've been saying, Director, that's sort of the core issue here. Is you've got a
14 bunch of properties that want to do something a little bit different but since the... what they're
15 trying to do is all retail. I'm a little surprised that we can't do that anyway because it's just right
16 there. If all you need is a change to that Item Number Two to make everybody happy, including
17 the attorneys, then I would be fine with that part because that's all we're trying to do on the
18 ground floor retail is have good space there.

19

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1 The other comment that I want to make is just that that first sentence (F) I think is very
2 specifically directed by Council and very specifically there to protect grandfathered facilities
3 that are residential to be residential. So, I don't find that object-able at all, it's what preserves
4 housing. We can't talk about what's it going to cost, whether it's affordable or market but that
5 does give you the retention of the housing that we're looking for in a building that's already...
6 that can't be converted to something that's bad. So those two provisions seem relatively easy.
7 The waiver as the discussion has proceeded has seemed relatively impossible. So, we have
8 some other lights on here and we'll go back there but there may be a narrowing of this can get
9 something done and then send it back to Council for their review. I believe the next one up was
10 Commissioner Roohparvar.

11

12 Commissioner Roohparvar: So, my recommendation and I just want to (interrupted)

13

14 Chair Lauing: Mic.

15

16 Commissioner Roohparvar: Oh. My recommendation, I just want to put this out there, would be
17 I do think that that's a directive by Council. The first part I agree with I'm just focusing on
18 Section (F), the residential portion of any grandfather facility shall not convert to a non-
19 residential land use or a reduction in area or number of units. I do agree with that and it was
20 directed by Council. However, I would suggest we take out the entire waiver language and

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1 continue that by saying unless otherwise preempted by state or federal law and the reasoning
2 being that this a legal question. This is not a matter that the Planning Commission or the City
3 Council should be deciding. I think it's just going to invite litigation and that might be a way to
4 get past this issue.

5

6 Commissioner Waldfogel: Can I ask you a question?

7

8 Commissioner Roohparvar: Yes.

9

10 Commissioner Waldfogel: (off mic) Why would we need that additional language? I mean isn't
11 that always true?

12

13 Commissioner Roohparvar: It is always true.

14

15 Commissioner Waldfogel: So why would we specifically need that language in this paragraph? I
16 mean why wouldn't it just be that first sentence full stop?

17

18 Commissioner Roohparvar: So frankly (interrupted)

19

20 Chair Lauing: Mic.

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Commissioner Roohparvar: Oh. I don't know if we necessarily need that language because I think that it's a given that state and federal law would preempt.

Commissioner Waldfogel: That's what I thought so I'm just wondering why you'd add it?

Commissioner Roohparvar: If the City attorney... if we've used it in other areas of the code and we want to but state or federal will always preempt so we can full stop. End it there and get rid of the waiver clause.

Chair Lauing: Yeah, I think that's good. I think we're honing in here. Was that your only comment?

Commissioner Roohparvar: That was my only comment.

Chair Lauing: Ok Commissioner Templeton.

Commissioner Templeton: Hi, thank you. I'm a little bit late for my comment. I was trying to jump in earlier to clarify the Ellis Act. Your two mentioned of the Ellis Act in our Packet, one is reference that is has been brought up by an external party and one is that it's an example of the

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1 kinds of state laws that may preempt or supersede our code. Is that correct? Is there any other
2 reason we would need to specify the Ellis Act? It's not in the language you're proposing.

3

4 Mr. Yang: Yeah, that's correct.

5

6 Commissioner Templeton: Ok so to my fellow Commissioners it may not be so urgent that we
7 understand the implications of the Ellis Act per say but as Commissioner Roohparvar said that
8 the idea of a waiver at all, right? Ok so just to clarify that and then Director Lait, you mentioned
9 that this conversation was not about preserving housing. Is that... did I understand your
10 comment correctly?

11

12 Mr. Lait: Well thank you for that question. I think what I meant to articulate is that this is an
13 ordinance that is... clearly is inclusive of some housing interest with the direction that we got
14 from Council. In my remarks, I was thinking of the broader sort of policy implications we have
15 beyond the housing also that applies to the other non-grandfathered buildings downtown. So, I
16 understand the comment earlier and thank you for asking that question just to clarify that.

17

18 Commissioner Templeton: Yeah, that's a great clarification, I appreciate that. So, I would say
19 that given that there's this dual nature of the proposal I'm wondering if maybe we have
20 combined in Item Three two separate issues that are kind of apples and oranges. One is the

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1 more objective fixing of the code error and the other being how to deal with Council's directive
2 to protect housing. Is that (interrupted)

3

4 Mr. Lait: (off mic) Yes.

5

6 Commissioner Templeton: Ok so I agree with Commissioner Alcheck that the spirit of Section
7 (F), protect our housing stock, is admirable. I share his sentiment to see what best practices are
8 in other Cities, however, I know we have limited resources and it seems that we have an
9 approach that we could potentially vote on.

10

11 My recommendation, I would like to split these items. Thank you.

12

13 Chair Lauing: Commissioner Summa was up next.

14

15 Commissioner Summa: [unintelligible - off mic]

16

17 Chair Lauing: I'm sorry?

18

19 Commissioner Summa: He hasn't spoken yet.

20

-
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1 Chair Lauing: Oh, ok fine. Yep, Commissioner Riggs. The names are switched here (interrupted)

2

3 Commissioner Riggs: I know.

4

5 Chair Lauing: In my reading so go ahead sorry.

6

7 Commissioner Riggs: I know we swapped chairs, didn't we? Yeah, I'm sitting in a new space is
8 all. It's all fresh and new here in 2019. Well, I want to try to be... it been interesting to absorb all
9 this stuff because I definitely didn't anticipate... I didn't see this... I've been trying to look at this
10 as a non-housing issue and as a basically a clarifying code issue. And I've even been trying to
11 take it away from all of the numerous projects you mentioned that are non-conforming
12 because really, it's a... we're clarifying something that was a mistake. And so aside from the
13 emotion to me this feel... this felt like a very rational item and so I guess what I'd like to
14 encourage us to do is just try to find some middle ground to get the thing done. And I did like
15 Commissioner Roohparvar and I'm going to probably mispronounce your name for the next six
16 meetings. But I did like your suggestion of the full stop, eliminating the rest of that sentence. I
17 think some of the people in the public also suggested that. And I guess I would still encourage
18 us to try to retain some of what Staff has put before us. We have some direction from Council,
19 I'd like to encourage us to try to take some action on it. Commissioner Alcheck you may have
20 some reservations about this but I think that there's a... the intent of this is good. And I would

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1 encourage the public if you have concerns about this to... and if we are able to move something
2 forward, to express those concerns again. I think we hear those and we recognize those as well
3 but I just would like to encourage us to just try to do our job tonight and get something done.

4

5 Chair Lauing: Ok Commissioner Summa, your light is on.

6

7 MOTION #2

8

9 Commissioner Summa: So, I do accept that is was... the change was made erroneously and I
10 think it's amazing is slipped through so many eyes but it was a law I was familiar with before I
11 was on this body. And I think changed and I think it changed through error. So, I could make a
12 motion to strike the language for continual use and occupancy by the same use as suggested by
13 Staff in 18.18.120 (b)(1) I guess it is.

14

15 And then I appreciate the addition of protection even though it's a few buildings of protecting
16 grandfathered residential uses in the downtown zone. So, I agree with many of the comments
17 of my colleagues and then intention of the first sentence, the residential portion of any
18 grandfathered facility shall not be converted to a non-residential land use or reduce in the area
19 or number of units, and just stop there. And I am assuming that the reason our legal Staff
20 brought this forward was because they thought that was legal. What was very troubling to me

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1 was the broadness of the waiver process and that it put... as Commissioner Alcheck said that it
2 put into a less onerous process than the legal process that is really what is called for in a
3 situation where an applicant thinks we have violated the law. So that is my motion
4 (interrupted)

5
6 Chair Lauing: So procedurally what you're saying is that you move the Staff report with the
7 exception of a full stop at the end of (F)?

8
9 Commissioner Summa: Yes, that is it only contains the first sentence.

10

11 Mr. Lait: Full stop after units in (F) right?

12

13 Chair Lauing: Yeah first sentence in (F).

14

15 Commissioner Summa: Yep.

16

17 Chair Lauing: Is there a second?

18

19 SECOND

20

-
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1 Commissioner Roohparvar: Yeah, I second.

2

3 Chair Lauing: Ok, I thought you were the appropriate one to second this. Ok, it's been moved
4 and seconded and we have some discussion. I think you have spoken to your motion but you
5 can continue. Ok, Commissioner Alcheck.

6

7 Commissioner Alcheck: So, I just want to say a few quick... hopefully a few quick comments.
8 First is I totally appreciate this sentiment that we have limited resources. I think my... I could
9 support this motion but I would love to incorporate a recommendation that our Council
10 considers very seriously obtaining an outside legal opinion on whether or not this will hold up.
11 And the reason why I say that is because I can virtually guarantee we're going to have a lawsuit.
12 So, the expenditure of funds in the... in an effort to obtain greater clarity here will only save us
13 money in the future in my opinion. I do not think there is any path through this process where
14 we are not in court and I think that... you know look would our opinion change if you found out
15 that there was only one residential property in the downtown that's non-conforming? Would
16 that make this significantly more likely that this is a spot zoning situation? I think we just need
17 to... it's not necessarily that we need to make that determination. I just strongly feel that the
18 Council should consider the ramifications and they get to make that political determination
19 whether they want to proceed based on their legal advice. So, I'm happy to support this

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1 whether or not we incorporate that language but I do think we should incorporate a
2 recommendation... let me suggest a friendly amendment.

3

4 Commissioner Riggs: Mike [note -Commissioner Alcheck] can I just suggest something? Can we
5 treat that separately then (interrupted)

6

7 Commissioner Alcheck: Sure.

8

9 Commissioner Riggs: Can we just deal with the (interrupted)

10

11 Commissioner Alcheck: Sure, fine, I'll treat it separately (interrupted)

12

13 Commissioner Riggs: Motion on the floor and [unintelligible](interrupted)

14

15 Commissioner Alcheck: If it's alright with the Chair I'll make a (interrupted)

16

17 Commissioner Templeton: I second to split it.

18

19 Chair Lauing: Ok.

20

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1 Commissioner Alcheck: Yeah, I'll make a second motion after to recommend that Council seek
2 some (interrupted)

3

4 Chair Lauing: So, let's stay to the same... the motion that we're on that's been moved and
5 second.

6

7 Commissioner Alcheck: Yeah, I'll just... I'm just sharing that, that I'm happy to support this
8 (interrupted)

9

10 Chair Lauing: Yep, we got it.

11

12 Commissioner Alcheck: But I am uncomfortable because I don't think any of us really, and I say
13 that as a land use attorney, can really suggest that this... we know the limits of the... whether
14 this is vulnerable to legal challenge.

15

16 Chair Lauing: Right but that's in the (interrupted)

17

18 Commissioner Alcheck: And so, I'm uncomfortable recommending it without that.

19

20 Chair Lauing: Got it.

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Commissioner Alcheck: We didn't get that assistance tonight.

Chair Lauing: Right but (interrupted)

Commissioner Alcheck: We didn't get that encouragement.

Chair Lauing: But that's been the basis of our whole... this conversation here. That whole waiver thing and not knowing what to do legally [unintelligible – crosstalk] qualified.

Commissioner Alcheck: I think we've largely improved on it.

Chair Lauing: Yeah, ok so I think Commissioner Waldfogel.

Commissioner Waldfogel: Yeah, I can support the motion as it's now written and I'd also like to add to something that Commissioner Alcheck said earlier which is if we have a policy objective of controlling or managing residential conversion to non-residential uses. We should explore if this belongs in the grandfather section of the code or if this should apply more broadly in this Title 18.18. So, should we be looking at something broader than just grandfather facility conversion? I don't have an answer for that. I don't want to make any kind of amendment

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1 proposal tonight because we have no information. I cannot think of... I've just been looking at
2 the code, I can't see how and where to insert it. I don't want to try to do that on the fly but I
3 think that's something we should suggest to Council that there's possibly a broader
4 conversation that needs to be had. I will support this motion as it's currently constructed.

5

6 Chair Lauing: Ok Commissioner Templeton your light is on.

7

8 Commissioner Templeton: Hi, did Commissioner Riggs make a motion... a substitute motion to
9 split these two items?

10

11 Chair Lauing: We're going to make a second motion. After this one is over, we're going to make
12 a second motion.

13

14 Mr. Lait: So just to be clear so not the two items that the Commission is talking about right now
15 with Section 2 and (F). Those... that's what before the Commission right now. Commissioner
16 Alcheck was talking about a separate direction to Staff regarding outside (interrupted)

17

18 Commissioner Templeton: I was referring to Commissioner Riggs.

19

20 Mr. Lait: Oh.

-
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1 Commissioner Templeton: He said that we may want to consider (interrupted)

2

3 Commissioner Riggs: So, first off, a substitute motion is no longer a procedure vehicle we can
4 use.

5

6 Commissioner Templeton: Dang. Ok, so that's why he saying no.

7

8 Commissioner Riggs: So, we vote on the motion on the floor and I think what the consensus
9 that I'm seeing across is that we would treat the recommendation separately after we vote.

10 And with that, if you're done (interrupted)

11

12 Commissioner Alcheck: (off mic) She's talking about [unintelligible]

13

14 Chair Lauing: But I think Commissioner Templeton you're talking about separating (F) from
15 (B)2?

16

17 Commissioner Templeton: Yes, when we vote.

18

19 Chair Lauing: Right and that's not the motion that's on the table.

20

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1 Commissioner Riggs: Then that's not (interrupted)

2

3 Chair Lauing: So, you have to speak against the motion that's on the table.

4

5 Commissioner Templeton: Excellent, thank you for clarifying. Yes, I would like to speak against
6 the motion that's on the table in favor of splitting them because I think it's important to adopt
7 the non-controversial recommendation and send it to Council as two separate items. Would
8 that happen if we were to adopt them separately?

9

10 Mr. Lait: Well I think what would happen is we would just simply communicate the
11 Commission's recommendation. And so, depending on if there was a need to parse out your yes
12 or no vote on one or the other and you wanted to articulated that. You could either split it up
13 or you can speak to yes and say however you... you can make dissenting comments afterward if
14 you wanted too. You got some broad discretion on how you want to approach (interrupted)

15

16 Commissioner Templeton: Alright, thank you, yeah, I'm very in favor of changing the language
17 that's in (B)2 as recommended. I share some concerns that have been expressed here tonight
18 by people with legal backgrounds on the Commission about how we may want to proceed with
19 the concept that has driven the language in (F). However, the... I'm inclined to support the idea
20 without the waivers so... but I would be able to vote on them separately. Thank you.

-
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Chair Lauing: So, if you voted on them separately, just so we understand your objection, would take the same language that's in the first motion and just put it into a second motion?

Commissioner Templeton: I would love to get a little bit more clarity on... I'm still a bit uncomfortable that people can't use their property in a way that the area is zoned for. And I want to understand and be more sure that it is... how it is working because our counsel has told us that it's legal but I don't quite understand yet that it is.

Chair Lauing: Right but this is residential has to stay residential, that's what this is saying, right? But are you saying if it was residential and they wanted to put in retail they should be able to do that?

Commissioner Templeton: I would like to know the answer to Commissioner Alcheck's question about how it's not spot zoning. That's the (interrupted)

Chair Lauing: I'm sorry, what was the last word?

Commissioner Templeton: How it's not spot zoning?

-
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1 Chair Lauing: Ok. Other comments? Let's see, Commissioner Summa.

2

3 Commissioner Summa: Yeah just to continue the conversation with my colleagues, I think it's
4 not spot zoning because it is broadly applied in the CD Zone and we know there are other
5 grandfathered uses. There are... we don't exactly know how many grandfathered residential
6 uses there are but we have a strong Council direction and has strongly favored increase the
7 residential uses in the downtown. And that starts with I think protecting the existing ones and it
8 doesn't just apply to one... it does just apply to one zone.

9

10 And to Commissioner Waldfogel's comments, I saw perhaps the germs of a much broader, City-
11 wide residential production we can have. And when it comes to grandfathered facilities,
12 generally we do impose different rule on them because they exist outside of the current zoning.
13 So, we feel we can be in a way more restrictive with what they can do and this only applies to
14 grandfathered uses also. That's kind of my thinking.

15

16 Chair Lauing: Commissioner Roohparvar.

17

18 Commissioner Roohparvar: Yeah, I just want to go ahead and vote on the motion at hand but
19 then we're going to address Commissioner Alcheck's issue of recommendation to Council for
20 legal opinion after craft? Ok.

-
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Chair Lauing: Commissioner Riggs did you have your light on?

CALL THE QUESTION

Commissioner Riggs: I want to call the question.

Chair Lauing: Ok let's see, that's needs just a second.

Mr. Lait: [unintelligible – off mic] I think what they are saying is just are you ready to vote.

Chair Lauing: Yeah, yeah, no just asked that question anyway.

Commissioner Riggs: Sorry, being proper. Let's vote.

Chair Lauing: I think I just want to make one comment that I think either way we're going to get to the same place. And one motion just seems a little bit simpler to me but I think we're going to get to the same place.

Commissioner Waldfogel: [unintelligible – off mic] second so we can vote on it.

-
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Chair Lauing: We are, we are. So, all in favor of the motion which is to approve the Staff report with the changes in B (2) and (F); the first sentence full stop at units. So, we know what we're talking about?

Mr. Lait: Delete everything after unit.

VOTE

Chair Lauing: Right, all in favor? 7-0, thank you.

MOTION #2 PASSED 7(Lauing, Templeton, Roohparvar, Alcheck, Summa, Riggs, Waldfogel)-0

Chair Lauing: I'll open the floor to another motion relative to the legal aspect of that.

Commissioner Roohparvar: [unintelligible – off mic]

Commissioner Alcheck: Yeah so this is my recommendation. I think we should have a second motion (interrupted)

-
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1 Chair Lauing: Close to mic.

2

3 MOTION #3

4

5 Commissioner Alcheck: I move that Council consider obtaining a legal opinion on the
6 vulnerability of the language in Section (F). Whether that's in closed session or a public session,
7 it's their call, before voting to incorporate that language in the code.

8

9 Chair Lauing: Is there a second to that?

10

11 Commissioner Alcheck: I can speak to that motion if there's a second.

12

13 SECOND

14

15 Commissioner Roohparvar: I'll second.

16

17 Commissioner Alcheck: So, I'll just speak to it quickly. I think we will be faced with legal
18 challenges. I think that's obvious and I think that the City Council is in the best position to make
19 the decision on the risks or rewards related to the codification of this language only after
20 they've received better legal insight than we have at this time. So, my vote in support of the

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1 langue in the prior motion is very much contingent on the hope that the Council will have
2 better clarity on the legality before accepting that language into our code.

3

4 Chair Lauing: Other comments? Commissioner Waldfogel.

5

6 Commissioner Waldfogel: I'm inclined to not support this motion and the reason is I think that
7 we're just asking the Council to follow best legislative practice which I hope that they generally
8 do and I'm not sure we need to advise them on what that is. That seems a little bit outside of
9 our scope.

10

11 Chair Lauing: Commissioner Summa.

12

13 Commissioner Summa: So, I'm sort of assuming that Council already knows more about this
14 than we know and it wasn't something that could be shared with us this evening. I'm not sure
15 we really need to do this either. I don't think it hurts anything dramatically but I think there's...
16 they've already received recommendations from this that we haven't been privy to is what I'm
17 thinking but I don't think it really hurts anything.

18

19 Chair Lauing: Commissioner Templeton.

20

-
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1 Commissioner Templeton: Director Lait, did you say that this would... this section effects 13
2 properties?

3

4 Mr. Lait: There are rough count about... without going into details about any of those
5 properties, our first initial search came up with about 13 residential properties that may not
6 comply with the current development standards for the downtown district.

7

8 Commissioner Templeton: Ok and (interrupted)

9

10 Mr. Lait: And that's about 100 and some odd units; 180 something units.

11

12 Commissioner Templeton: In Council's direction to you did they intentionally restrict this to
13 just the downtown area or did they imply that there's going to be other efforts throughout the
14 City to save residential (interrupted)

15

16 Mr. Lait: So, I'll (interrupted)

17

18 Commissioner Templeton: Inventory.

19

-
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1 Mr. Lait: The... there are regulations in the Municipal Code that are more Citywide and that's
2 dealing with non... we call them non-complying facilities and uses and that handles the bulk of
3 the City. Downtown has very specific... its own set of grandfathering uses and how to regulate
4 grandfather uses and structures and that is the very discreet piece that we're dealing with on
5 this ordinance.

6

7 Commissioner Templeton: So, this is an effort to patch a hole we've identified.

8

9 Mr. Lait: This is... yeah, what's before you is to respond to an issue that has come to our
10 attention and (interrupted)

11

12 Commissioner Templeton: It's very specific for that reason.

13

14 Mr. Lait: For downtown, yes.

15

16 Commissioner Templeton: Ok, thank you.

17

18 Chair Lauing: Commissioner Riggs.

19

-
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1 Commissioner Riggs: I actually just really wanted to hear from Commissioner Waldfogel. He had
2 some other things that he wanted to share or you had some other ideas that you wanted to
3 recommend? Oh, and I think those bigger picture thoughts might be good. Kind of like what's
4 been expressed, I don't know that advising Council on the legal ramifications of this is totally
5 necessary. I think they're going to consider that but I do think that we might want to consider
6 thinking beyond this policy and I think you were nudging us in that direction. And would that
7 something that you would want to recommend as a part of... add further consideration?

8
9 Commissioner Waldfogel: Well I don't think we need to put that in the form of a motion. I mean
10 I think that's something that will emerge from the minutes and I hope from Staff discussion.

11
12 Commissioner Riggs: I'm fine with that. I just wanted to make sure that you felt heard.

13
14 Commissioner Waldfogel: You know because I think that it's... yeah, no I think it's covered.

15
16 Chair Lauing: Commissioner Alcheck, is your light on?

17
18 Commissioner Alcheck: Yeah look it's my sense that Council thought we would be able to help
19 here. That's what I think, I think they were in a very challenging situation last month and they
20 were like let's kick it down to Commission and see if they can come up with some answers. I

-
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1 think there's a lot of agreement here. We can't have the Cheesecake Factory stuck as the
2 Cheesecake Factory indefinitely after they've closed. That would be a clear communication to
3 Council, right? I think we're comfortable with the making an effort to protect housing in our
4 downtown by limiting its conversion but we were not successful in obtaining a lot of legal
5 guidance tonight. And if they simply took the... the take away from you guys recommended that
6 we strike this language in there and forget about waivers and let's just... let's go to battle. That
7 would be an improper conclusion of my personal sentiment as one of the seven
8 Commissioners. I have serious reservations about whether or not we've sufficiently evaluated
9 the legality of that language. And so, I'm not trying to suggest something that they already do,
10 I'm going to reinforce that there may be a sentiment among a majority of Commissioners that
11 there is a hefty legal question here that wasn't (interrupted)

12

13 Commissioner Roohparvar: Sussed out.

14

15 Commissioner Alcheck: Yeah. Wow, I really can't think of that word right now. That wasn't
16 (interrupted)

17

18 Chair Lauing: Lets see how that one looks in the minutes.

19

20 Commissioner Roohparvar: Sussed out.

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Commissioner Alcheck: Yeah, sussed out at this level and that they should know that. So that's the reason I put this forward, not to belabor the point.

Chair Lauing: I'll speak to that and I can support it for exactly those reasons. I mean the core of the issue here is was we don't feel like we have the legal knowledge or the visibility to go into the waiver. So, we're not passing that and the suggestion that they take up a look at it, while it might be redundant, it's a summary of one of tonight's results so I can support it. I think... do you have another comment?

Commissioner Roohparvar: I do have another comment.

Chair Lauing: Sure, Commissioner Roohparvar.

Commissioner Roohparvar: I could also support Commissioner Alcheck's recommendation. I was somewhat under the impression that Council had already done the legal researched and sussed this out and that's why I was coming out with the directive but I agree this does make me a little bit uncomfortable. I do think that it is important for... we're just reminding them, we're not going full boat saying this is great, go ahead and do it. Just reminding them you know to make sure to just suss this out a bit more legally. I don't think it's fair to put the City Attorney

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1 on the spot right now and grill him on answers. So, I do think I would support Commissioner
2 Alcheck's recommendation.

3

4 Chair Lauing: Ok seeing no other lights let's vote on that motion. So, all in favor of the motion
5 to... do we need to repeat it or do we know what we're voting on in terms of (interrupted)

6

7 Commissioner Alcheck: (off mic) I think it was short and sweet.

8

9 Chair Lauing: I think so too.

10

11 Commissioner Alcheck: (off mic) If I repeat it, it's in danger.

12

13 VOTE

14

15 Chair Lauing: It might be different next time so all in favor of that motion? Five and opposed?

16 One.

17

18 Commissioner Waldfogel: (off mic) I'll just abstain.

19

20 Chair Lauing: And one abstention. 5-1-1 so that's how it's recorded.

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MOTION #3 PASSED 5(Lauing, Roohparvar, Templeton, Alcheck, Riggs)- 1(Summa) -0-
1(Waldfogel)

Commissioner Riggs: No, I think its... wasn't an abstention made?

Chair Lauing: Ok thank you that closes this item on the agenda. So, I want to take about a 10-
minute break here and then we're moving on to the officer elections and then the minutes.

Commission Action: Motion to (1) move Staff report and (2) Delete on (F) everything after the
first sentence made by Commissioner Summa and seconded by Commissioner Roohparvar;
motion passed 7-0

Motion made for Council consider obtaining outside legal opinion on the vulnerability of the
language in Section F before voting to incorporate that language in the code made by
Commissioner Alcheck, seconded by Commissioner Roohparvar; motion passed 5-1 (Summa
opposed and Waldfogel abstain)

[The Commission took a short break]

Election of Chair and Vice Chair

Chair Lauing: So, the exact wording of this agenda item is the election of the Chair and Vice
Chair. Particularly since we have a couple new folks, I just thought we would chat a couple
minutes about what the responsibilities of the Chair are beyond what the bylaws say because I

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1 think you got those in the orientation group. So, this doesn't have to be monologed, other
2 people can chime in on this. The responsibilities are to be the respected leader of the PTC in the
3 meetings of course but to Council, to Staff and the entire community. A big part of this
4 obviously is managing meetings and issues but it's not the exclusive one. Managing that is a big
5 deal with seven highly engaged Commissioners with a lot of opinions, keep on agenda, nudging
6 issues to recommendations and keeping speeches under control is definitely a big part of that b
7 there's a lot that happens outside of the meetings. It's a high time commitment level with Staff
8 and sometimes with Council. So, in addition as you might have heard, we do a pre-meeting to
9 plan this meeting and that's good because a lot happens there. As you saw tonight, yesterday
10 we talked about maybe that waiver didn't work too well and so by the time we get here we had
11 some other things to talk about so that's the value of the pre-meeting. With Vice Chair Monk last
12 year, we sometimes did pre-meetings to make sure that we were up to speed and she was
13 great at that and sometimes we did post-mortems just to make sure that we're ready to go
14 here. And of course, interfacing with Staff between meetings on agenda items and other issues
15 that come up as very, very standard at Jonathan can attest. Planning the retreat, meetings with
16 the... occasional meetings with the Mayors and then other sorts of protocol meetings; Council
17 reorg [note – reorganization?] meeting in January, Mayor's state to the City, Council retreat in
18 the new year, Commission recognition events and so on.

19

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1 I'd just like to state one thing that I'd personally strongly believe that the Chair is not which is a
2 political position. I mean I think by intent it meant to be apolitical and very natural and fair to
3 everybody's that's here. I mean we're not tonight electing a speaker of the House, that's the
4 complete opposite to what we're doing here because the collaboration with Staff and meeting
5 management, Staff liaison are natural. So, but as I net out the skills, clearly, meeting
6 management, language skills if you want to call it that adds group dynamics, people skills
7 generally and just heck of a work ethic. Michael, did you have something to add? Oh sorry.
8 Well, you sat here you can add something if you'd like.

9

10 Commissioner Alcheck: [unintelligible – off mic]

11

12 Chair Lauing: Oh ok, ok. So, I just wanted to kind of give you that perspective, particularly as
13 we're new. If anybody wants to add anything please do. So, the process that we go through for
14 this is we talk nominees for the Chair first, we get a nominee and a second on that, when that
15 happens the candidate that is nominated says yes or no. I remember you actually had to have a
16 debate once on your nomination Michael because you and Eric were debating who should be
17 the Chait so that's fair too.

18

19 Commissioner Alcheck: [unintelligible – off mic]

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1 Chair Lauing: That's right and no, you had the short straw. You got to get to be the Chair, right?

2 And so, then we take another nomination and another until all the nominations are on the

3 table with nominations and seconds. And then when they are all on the table each of the

4 candidates would make a statement about why they think that they should be Chair in 2019.

5 And then we'd just all bail in on any comments that we want in support of or not in support of

6 some candidate. And then we just take a vote, if there's two candidates then whoever gets at

7 least four votes is the winner.

8

9 When that's done the Chair... the new Chair is in charge of doing the exact same thing for the

10 Vice Chair and we go from there. Right? Ok.

11

12 Commissioner Alcheck: No really relevant but in the past actually the transition happened after

13 both appointments. You would in theory still be running the meeting until the Vice Chair was

14 appointed and then the... yeah, I don't... you wouldn't switch seats (interrupted)

15

16 Chair Lauing: That's fine. It's pretty... it's minor either way because we're just counting votes,

17 right?

18

19 Commissioner Alcheck: (off mic) Yeah, yeah, I know, I'm just [unintelligible].

20

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1 Chair Lauing: Ok. Any questions about process?

2

3 Commissioner Roohparvar: (off mic) Does the Chair set the agenda with... oh sorry.

4

5 Chair Lauing: Mic.

6

7 Commissioner Roohparvar: Does the Chair set the agenda for the meeting with the planning

8 (interrupted)

9

10 Chair Lauing: You'll get used to that because that's not only the mic for the audience but it's for

11 the mic because it's being recorded. That's was an interesting debate when we just changed

12 the bylaws. I think it technically says that Staff sets the agenda which is more often the case.

13

14 Commissioner Roohparvar: Oh, got it.

15

16 Chair Lauing: And I think it's fair to say and again other folks chime in here, that we try to

17 influence the agenda by bringing things up for next agenda items which is later in our agenda

18 tonight for example. It's very much driven... if you want to speak to this, it's very much driven

19 by Stuff that comes up that has to be done.

20

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1 Mr. Jonathan Lait, Assistant Director of Planning: So right so we set the agenda but we work
2 with... in... and we could probably do better at this but working with the Chair to sort of
3 understand what's coming up on the agenda. You'll notice that the tentative agenda changes a
4 lot. It's... we're responding to private applications that come in and so that's going through a
5 trajectory that may not always be in our control. And then there's policy work that we're trying
6 to put together and have it ready for the Commission at times. And sometimes those things slip
7 because it takes us a little bit longer or we miss something and so it's a little bit fluid how that
8 all comes together.

9
10 As far as items that would be heard and discussed by the Planning Commission because of
11 some interest you have, that's... there's a place that we're going to get to in a moment where
12 you could ask that something be scheduled. And the Commission could have a dialog about that
13 and we can schedule that for the next agenda or when appropriate. It challenges if it requires
14 us to do a lot of work in preparing a Staff report, research, we'll push back a little bit only
15 because it's the Council that sets our work program. And so, but we're happy to do certainly
16 stuff to get things teed up for discussion for the Commission.

17
18 Commissioner Roohparvar: Thank you.

19

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1 Chair Lauing: Yep so this is the first time we've ever done this because we changed the bylaws
2 to empower incoming Commissioners because before new people were disenfranchised to
3 state it negatively and there was a lot of debate on that. In the Commission, we changed it to
4 give you the franchise so you would be able to vote. So now we're going to have a question and
5 answer on the 22 meetings that you listened to online so that you... because that's what we
6 had last year and we hope you're up to speed on that.

7

8 Ok so (interrupted)

9

10 Commissioner Waldfogel: Twenty-two meetings, that's all?

11

12 Chair Lauing: There were a couple that were canceled. Ok, I would open the floor for
13 nominations.

14

15 Commissioner Riggs: I'm going to be assertive and I can speak to my nomination. I'm going to
16 nominate myself.

17

18 Chair Lauing: Oh, ok.

19

20 Commissioner Alcheck: I will second that nomination.

-
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Chair Lauing: Ok moved and seconded and since you made the nomination, I guess that means you would be willing to serve so I don't have to ask you that question.

Commissioner Riggs: I would be willing to serve.

Chair Lauing: Ok, Commissioner Waldfogel light on?

Commissioner Waldfogel: Yeah, I'd like to nominate Chair Lauing for a second term.

Chair Lauing: Ok and a second to that?

Commissioner Summa: I'll second that.

Chair Lauing: Commissioner Summa second and yes, I would do it.

Commissioner Waldfogel: (off mic) I forget to ask, will you do it?

Chair Lauing: I'll do it, yeah, I'll do it. I'm one of those guys that really like this job so I'll do it.

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1 Commissioner Waldfoegel: (off mic) uh-oh, that's a disqualifying [unintelligible].

2

3 Chair Lauing: Ok other nominees? Ok, no nominees ok so we close the nomination; two
4 nominations. So, then we would have a candidate statement so Commissioner Riggs would you
5 like to go first?

6

7 Commissioner Alcheck: Can I just ask a question or I'm used to somewhere the... that you can
8 speak to you (interrupted)

9

10 Chair Lauing: Oh definitely. Yeah, we can do that first that's fine.

11

12 Commissioner Alcheck: No, normally in the past you've has a nomination and second and then
13 two individuals participated in that would speak. I appreciate... I think the idea of candidate
14 statement but the 7-years that I've been on the Commission we haven't done that. Normally
15 we have the individuals who are making the nominations speak. In this case, you're both
16 (interrupted)

17

18 Commissioner Riggs: I'm happy to withdraw my (interrupted)

19

20 Commissioner Alcheck: But I would just appreciate the opportunity to also speak to this.

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Chair Lauing: Oh definitely, everybody is going to get to speak so go-ahead Commissioner Riggs.

Commissioner Riggs: Well I mean I think the protocol that Mike... that Commissioner Alcheck was suggesting was that he wanted to speak to his nomination before I had... I don't want to short... I don't want to (interrupted)

Chair Lauing: If that's what you'd prefer, that's fine. That's fine.

Commissioner Riggs: From a procedural standpoint I... can Commissioner Waldfogel and Commissioner Summa should also have a chance to speak to their nomination before you have a chance to talk. So, it's probably most fair to give Commissioner Alcheck a chance to talk to that as well.

Chair Lauing: Yeah no that wasn't my plan but I'm perfectly happy to shift it.

Commissioner Riggs: I'm sorry if I'm complicating things in making it to formal but I (interrupted)

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1 Chair Lauing: No, I was just thinking that if a... with a candidate statement out there then
2 everybody could talk but that's fine if you want to reverse it.

3
4 Commissioner Alcheck: It's a little confusing because I know that we've changed the timing of
5 the vote but I didn't realize that we were changing so many components of our process.
6 Normally it's not free for all. Not everybody speaks on the nomination, it's normally just I'd like
7 to nominate so and so and then you get a second. Those two people talk to the nomination, if
8 you're in acceptance than you vote.

9
10 Chair Lauing: If you'd like to stay with that (interrupted)

11
12 Commissioner Riggs: So kind sir I will respect your leadership and I will say that I am willing to
13 speak to my nomination now. And I... well I'll just start off saying I kind of nominated myself
14 with the utmost respect for Chair Lauing and what you've done and the leadership you've
15 provided. I... this is something that... I don't know that I aspire to this but I've doing... this is my
16 fifth year on a Planning Commission and my second City on Planning Commission. It's a field
17 that I know really well. I feel like over the last... particularly the last year I've been able to
18 develop a really strong relationship... a working relationship with Jonathan. We actually had
19 about 30 students up here a couple months ago and talked to them about City planning and
20 how the planning processes work. And it was really educational for me to see how he interacts

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1 with the next generation of leaders. and for me personally one of the things why I expressed
2 and had been a limitation of mine of the ability to keep to a certain schedule that allowed me
3 to be here over the last year. And I think with your help and with Jonathan's help we've started
4 making sure when the meetings is scheduled that's when the meeting is. And I think for the
5 parents on the Commission that's going to be really valuable going forward.

6
7 The... I mean I think that the key things that I want to focus on and what my desire is is to really
8 just have an efficient and respectful and empathetic process. Not that it hasn't been but I really
9 want to try to speed up our time to decision and try to just be as consensus-driven as possible.
10 And that's really one of the things I want to work for and I have to say I've dealt with frustration
11 a little bit in the last year. And I think that was some of the tough projects we were grappling
12 with but what I look forward to this year and what I'm really energized about is being very
13 action oriented. And the funny part, as I know you are too (interrupted)

14

15 Chair Lauing: Yep, we've talked about it.

16

17 Commissioner Riggs: So, we're running on similar platforms and so I'm going to be really
18 content with the direction this Commission [unintelligible] but I would appreciate the chance to
19 step into a leadership role if anybody would support me.

20

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1 Chair Lauing: Commissioner Alcheck.

2

3 Commissioner Alcheck: So, look a bit context, I've served on the Commission for 7-years, I've
4 worked with 16 Commissioners, not including you too who have now joined so that now makes
5 18 different Commissioners but only seven Chairs including myself so six Chairs. The vast
6 majority of Commissioners don't get to participate in a leadership position and the vast
7 majority of the 16 people I've worked with have spent less than 4-years actually. They never...
8 the majority of people that I've worked with have not finished their term. In that time, I've
9 never sort of seen it... a Chair lives the experience twice. I think one of the benefits is to have
10 different individuals on the Commission share that responsibility because in my experience, for
11 example, I think you... you can have a significant impact on the deliberation. Also, you learn sort
12 of a broader sense of how the City works because you do work closely with Staff. I think that
13 there is a benefit to having exposure before assuming this role to multiple Chairs. So, I had
14 worked with five Chairs before I assumed that role and it really gave me a sense of the
15 spectrum of ways that meetings can run. And I know Commissioner Lauing stepped into the
16 role right after his first year and so his real only exposure to this particular PTC's Commission's
17 leadership was me and I think he did a good job in that role. I am comforted also by the notion
18 that... by the fact that you served on the San Luis Obispo Planning Commission and you have
19 had an opportunity to participate in that forum with other leaders and in other ways. I'm
20 excited about the idea of you bringing some of that knowledge and experience to this

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1 Commission and to the role of leadership... of this role, this leadership role. So again, it's tough
2 when a past Commissioner... Chair seeks the position again but with the utmost respect while I
3 was... why I think you did a good job I am excited to have a new leader step into the role and
4 have the opportunity to guide us through this next year.

5

6 Chair Lauing: Ok I also want to make a statement relative to my candidacy this year for 2019. I
7 guess maybe I should promise not to run in 2020. There actually is a lot of precedent in our City
8 for Chairs running multiple times and in Parks [note – Parks and Recreation Commission] I think
9 in the last 8-years that's happened three times. So, there's precedent there and I'm told that
10 there's precedent on this Commission as well. This is my 10th year on a Commission, seven from
11 Parks [note – Parks and Recreation Commission] and excuse me, I'm trying to give a bit of my
12 history to them because they may not know it. And I was on Parks [note – Parks and Recreation
13 Commission] for 7-years and now starting my third year here on PTC. And so, I feel like with
14 that experience I really understand the City and have developed really high respect
15 relationships with Staff. And I think to manage the issue with Staff before they get here in a
16 very effective way and sometimes on a post mortem basis as well as Jonathan probably could
17 attest. I was Chair of Parks [note – Parks and Recreation Commission] multiple times, actually
18 three, because my colleagues just felt that I was a good leader. And also, that my work product
19 help put from the dais and also in a lot of Ad Hoc Committee meetings was high work ethic and
20 just good output. So that's why they tell me that I was there multiple times. Part of my City

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1 service I was a Board Member on a lot of non-profits in the City and in officer positions, so
2 ranging from homeless to baseball leagues.

3

4 So, in my experience... now speaking to all of you, in my experience the best Chairs of non-
5 profits have a few key traits that some I've learned and I've adopted this practice. And the first
6 one is prepared intensively for issues that are on the agenda, the second one is work very well
7 in advance with Staff so that if you're not on the same page at least you know which page
8 you're on and you can work from there. I think most importantly it's an issue of... and I hope
9 everybody that's returning Commissioners here has seen this, I work to get a solution. I like to
10 get stuff done. If there's a gap, I'm trying to figure out a way to close that gap. Commissioner
11 Alcheck once said that he sort of saw me always swing vote. I took that as a high compliment,
12 not because of the vote but because I'm looking for a way to get to a consensus and get
13 recommendations back by a reliable and sufficient data off to Council. So, I propose a
14 compromise and I'm receptive to compromise. I believe as a meeting manager that I make sure
15 all views are fully expressed while being repetitive to folks that need to be reminded that's
16 probably enough so that's the kind of thing.

17
18 So just a quick bit about '18 [note – 2018] because it's not... these are not my statements, with
19 the corporation with everybody and doing some compromise and I felt we were highly

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1 functional and productive. And that's for everybody here and our two departed ones to take a
2 bow on. I think we got many recommendations off to Council with really strong votes.
3
4 Two things internally, one is that we did our first PTC retreat in probably a decade and I was
5 told that's not... that's can't happen, it's just too hard to get it done. We scheduled it on
6 January 17th, we had a very productive retreat, we had... I think we did a great job aligning with
7 Council priorities on our own work plan for the year. Part of which was this Housing Work Plan
8 that we'll work on again in the coming year. So, then the other one that I already mentioned is
9 we enfranchised the new incoming people as part of an overhaul of the bylaws which I think are
10 going to make us more effective. I'll be if we don't have substitute motions anymore as was
11 pointed out earlier tonight. And then finding common ground on some of these issues I think
12 was really important and we did a good job there. I mean twice we made strong
13 recommendations on affordable housing; the Wilton Project which was unanimous. We got the
14 Council Housing Work Plan into a first... the first part of that into a motion and the Council just
15 passed it as Director Lait just said tonight with very minimal changes; which I think again is... we
16 should take a little satisfaction in that. That hasn't been the case with some of the stuff we've
17 passed on earlier. And then I think maybe the best example is the 2755, the VTA lot. That was a
18 very controversial project, very controversial use of land, relaxation of a lot of building
19 standards, we came into that not exactly united and we passed it 6-0 so I think that's a good
20 statement.

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1

2 So, for 2019 and I have talked to Commissioner Riggs about this. I'd like to get real projects
3 done, concrete projects. For example, I think we should get proactive and visible with this new
4 ordinance that we just passed on Zoning Laws. Let's get out ahead of that. You know that old
5 phrase if they build it, they will come. Well I don't know that, are builders going to come now
6 that we've sort of built the ordinance. I think we got to get out in front of that. We got to say
7 we're open for businesses. I talked to Mayor Kniss about this and that was actually her phrase
8 as well. So... and then another one we've talked about from time to time is you know we
9 already have a minimalist shuttle system in Palo Alto. Why don't we look at if we can build
10 something on that and expand it and look for ways to fund it. So those kinds of concrete
11 projects I think we should get too.

12

13 Just one other... actually two other points about my style as Chair which I think even the new
14 folks saw tonight. I almost always choose to speak last on a content issue. Not because I'm not
15 interested or I don't have 63 comments I could ask but I think the role of the Chair is to create a
16 climate for productive and civil debate. And not... I don't like the Chair model of a bully pulpit so
17 the Chair talks more. I'm actually just the opposite so that's just a style factor and I think it
18 helps the Commission. And lastly, I show up. I try for 100 percent attendance, I missed one
19 meeting this year because my mom was in really bad shape in Wisconsin, otherwise, I'm here.
20 So, look, I'm talking about 2019 and its just a question for all of you as to of all the dedicated

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1 and smart people sitting here, who's the best person to lead the team this year, and I submit
2 that with my experience set and the good year that it should be me. So that's where I stand.

3

4 Commissioner Waldfogel: (off mic) Do I get to speak to my nomination?

5

6 Chair Lauing: Yeah. You're not usually that eager to speak but yeah go ahead.

7

8 Commissioner Waldfogel: Well I like to make sure that I have the floor before I start speaking.

9 So, the other reason why I support Lauing for another year is first of all that he has displayed...
10 did display very... great work ethic and very effective process through a difficult... very difficult
11 year last year. Difficult agenda items, complicated, and we worked through it. We got it done so
12 that's... I think that's key.

13

14 The second thing that... and I haven't...I'm not... this one may come as a slight surprise but the
15 Council just downsized. Council just went from nine to seven and a consequence of that is that
16 the Council probably will need to lean on the Planning Commission a little bit more than they
17 have in the past. And I think it's really important this year for the Planning Commission
18 leadership to hit the ground running. To just be ready to go because the Council just doesn't
19 have the bandwidth that they previously had so for me that is a very compelling argument for
20 why we should elect Chair Lauing to a second year.

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Chair Lauing: Other comments?

Commissioner Summa: [unintelligible – off mic]

Chair Lauing: Commissioner Summa.

Commissioner Summa: I will also be very happy to support Chair Lauing for a second year for all of the reasons mentioned before but I think most importantly work ethic, even-handedness, cheery attitude, it really helps a Board like this to have a good leader like that. And I want to thank Billy [note- Commissioner Riggs] for stepping up. I would... my hesitation... I would look very much forward to having another year to work with you before I would be able to support you as Chair. And part of that is attendance issues last year and I understand you have kids and it's really hard. And then several months ago you made some... at a public hearing meeting, you made some very negative comments about this body that made me uncomfortable. And I think I hear that they came from frustration but I think I would need... I would be more comfortable having Chair Lauing. And I look forward to being... working with you very much this year and I hope I can support you the following year. That's kind of [unintelligible - mic cut off].

Chair Lauing: Other comments? Comments or questions, I guess.

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Commissioner Roohparvar: I like both of you. I like everyone.

[note – male Commissioner:] [unintelligible – off mic]

Chair Lauing: You like everyone?

Commissioner Templeton: Thanks to whoever voted last year to put us in this position.

Commissioner Roohparvar: I know right?

Chair Lauing: No other comments? If not it's time for a vote for 2019, so we can just do a hand vote and it's four out of seven needed to elect, ok? So, who was nominated first? Mr. Riggs?

Commissioner Riggs: I nominated myself.

VOTE

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1 Chair Lauing: That's right, that's right so all in favor of Commissioner Riggs? Four and that's
2 means that there's three here in favor of Mr. Lauing. Ok so it's 4-3 in favor of Riggs, right? Ok.
3 Done.

4
5 COMMISSIONER RIGGS WAS NOMINATED AND PASSED TO BE CHAIR FOR 2019 WITH A VOTE
6 OF 4(Alcheck, Riggs, Roothparvar, Templeton)- 3(Lauing, Summa, Waldfogel)

7
8 Commissioner Riggs: Thank you.

9
10 Chair Lauing: Next is the Vice-Chair, same process, nominations?

11
12 Commissioner Alcheck: I (interrupted)

13
14 Chair Lauing: Let's see, Commissioner Waldfogel had his light on first.

15
16 Commissioner Waldfogel: Yeah, I'd like to nominate Commissioner Summa for Vice-Chair. We
17 actually had a hung vote process a year ago and Commissioner Summa graciously stepped back
18 but I would like to see her step forward if she is interested.

19
20 Commissioner Summa: I will accept that.

-
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Chair Lauing: Yeah, I'd second that for the same reasons. I can speak to it further but other nominees? No other nominations? Ok then we will (interrupted)

Commissioner Alcheck: I will (interrupted)

Chair Lauing: Oh sorry.

Commissioner Alcheck: I will maybe be so bold as to nominate myself for the position of Vice-Chair and I know...[unintelligible] have a second?

Commissioner Roohparvar: I'll second that.

Chair Lauing: Ok so any other nominations? Let's see if each of the candidates want to make a statement. Commissioner Summa.

Commissioner Summa: Sure, thank you very much, so I think I would do a very good job at Vice-Chair. I have worked very, very hard, I find the process... I'm enthusiastic about the process, and have... I missed I think two meetings in 2-years. So, I'm very much looking forward to doing this and I did... we did run into a situation last year where one member of this body

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1 abstained and there was... there didn't seem to be a very good outcome so I did withdraw my
2 name because Commissioner Monk had a much shorter term than I did. So, I thought that was
3 appropriate and not that it's in the bag but I do believe it was... there was sort of an
4 understanding then that I would serve the following year at Vice-Chair barring some
5 unfortunate circumstance. And yeah, I think that's it so thank you very much.

6

7 Chair Lauing: (off mic) Yeah, I just wanted to... oops. I just wanted to elaborate on the second.
8 All of that was true and it wasn't legislated, it was clearly a gracious move on the part of
9 Commissioner Summa. And beyond that, I think if you just look at the quantity of work and
10 knowledge of her... that she brings to the table, the quality of her comments and commitment
11 is just... it's just extraordinary. It's absolutely extraordinary so it's well deserved and arguably a
12 year late. Other comments? Did you have (interrupted)

13

14 Commissioner Roohparvar: Well is Commissioner Alcheck going to speak to his (interrupted)

15

16 Chair Lauing: Yep, sorry, go ahead.

17

18 Commissioner Alcheck: (off mic) I'm just waiting for your first to speak so following the same
19 process. Is Asher going to speak to his nomination?

20

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1 Commissioner Waldfogel: I'll just echo both of these comments which is Commissioner Summa
2 always shows up prepared, is very aware of our codes, I mean really understands the City
3 processes, and I think that she will do a spectacular job as Vice-Chair.

4

5 Chair Lauing: Commissioner Alcheck.

6

7 Commissioner Alcheck: Ok so I'm throwing my hat in the ring. I'll piggyback on a comment
8 Asher... Commissioner Waldfogel made which was that we hope... I sincerely hope this
9 Commission can be effective. I think efficient can be a dangerous word. I don't want to suggest
10 that we rush anything but effective which is... begs the question well what do you want to be
11 effective at? I'd like us to raise the level of professionalism, I'd like to see us engage in more
12 focused conversation about the issues based on the relevancy to our purview. And I think that
13 to the extent that I can provide are new Chair some level of past experience and insight, I think I
14 can do that really well based on the years of experience I have. Look I'll be frank I don't know
15 that attendance records is a significant component of the decision though I will say that I've
16 missed four meeting in 7-years. So, I suspect that I will have the perfect attendance record
17 when we conclude my term in 2021 which represent 11-years. But I want to say the following, I
18 think that everybody on this Commission is capable of managing this meeting. I don't believe
19 this is rocket science. I do believe that sharing these positions is... trading these positions
20 essentially is a good practice but I will also acknowledge that not every Commissioner that

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1 serves get to be in a leadership position. And I'll just add that I don't want to dispute the
2 recollection that some deal was made last year but it seems sort of incompatible to grant new...
3 a new voting right. And at the same times to suggest that there's some deal that we must
4 entertain that was made before. You can't have both ways, either we're going to incorporate
5 the new membership in this decision or we're going to allow the old membership to choose the
6 leadership. I don't think we can have it both ways. So anyways I would very much look forward
7 to the opportunity to provide you with support. I think the role is relatively small but important
8 and administrative largely and I hope I can exercise... I hope I succeed at getting your support.

9

10 Commissioner Roohparvar: So, you know I respect both Commissioner Summa and
11 Commissioner Alcheck. I think you both bring a lot of value to the table. I've seen both you in
12 action now, Commissioner Summa you have a lot to add in terms of content, you're very
13 thorough. Commissioner Alcheck the reason I seconded your nomination is because I feel you...
14 and you demonstrated it throughout this meeting. You have a lot of knowledge in terms of
15 logistics in how these meetings are run and what is done given your 11-years of experience;
16 seven and then prior now? Oh, when you finish? 7-years of experience on the Commission. And
17 I think you would do a good job keeping things running and everyone following by the rules and
18 running smoothly. So that's it.

19

20 Chair Lauing: Other comments? Commissioner Riggs... Chair Riggs?

-
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Commissioner Riggs: Chair Lauing, let's keep the (interrupted)

Chair Lauing: No, that's over baby.

Commissioner Riggs: Well I just want to say this is... I would... I know I voted. I wasn't aware of an exchange that took place between Commissioner Monk and Commissioner Summa. I wasn't... and this is a really tough decision and I just want a more kind of put a cognitive envelope around everything. Around the vote that just happened and what will transpire in a minute is I do like the sense of respect is weighing super heavy on me this evening. And I just want to make sure that it's very clear that a 4-3 vote, it's not a dismissal. I love that Commissioner Alcheck that you said anyone can... anybody could do this.

Commissioner Alcheck: Anyone of us.

Commissioner Riggs: Anyone of these individuals... highly qualified, bright, and articulate individuals could do this job up here and I just want to make sure that that is clear for the record. And thank you again for your leadership Chair Lauing, this week would... you'd... I have big shoes to fill.

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1 VOTE

2

3 Chair Lauing: Any other comments? Ok, we will vote for the Vice [note – Vice Chair] so first
4 nominated was Commissioner Summa. So, all in favor of Commissioner Summa. Three and all in
5 favor of Commissioner Alcheck? Four. Looks like the same. Ok.

6

7 COMMISSIONER ALCHECK WAS NOMINATED AND PASSED TO BE VICE-CHAIR FOR 2019 WITH A
8 VOTE OF 4(Alcheck, Riggs, Templeton, Roohparvar)- 3(Lauing, Summa, Waldfogel)

9 **Approval of Minutes**

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

11 4. December 12, 2018 Draft Planning and Transportation Commission Meeting Minutes

12 MOTION

13

14 VOTE

15

16 Chair Riggs: So, do we have the minutes next? Alright, any comments on the minutes from
17 December 12? Going none, do we have a vote of acclimation? All in favor for approval? And you
18 all can feel free to abstain if you were not here.

19

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1 Commissioner Templeton: I will abstain.

2

3 Chair Riggs: Yeah, ok.

4

5 Commissioner Roohparvar: I will abstain as well.

6

7 Chair Riggs: So that's five in favor, two abstentions. Any additional (interrupted)

8

9 MOTION WAS PASSED 5(Riggs, Lauing, Summa, Alcheck, Waldfogel)-0- 2(Templeton,
10 Roohparvar)

11

12 Mr. Jonathan Lait, Assistant Director of Planning: For the record, I think Chair Riggs you made
13 the motion and Alcheck seconded that right?

14

15 Chair Riggs: That's correct.

16

17 Mr. Lait: Thank you.

18

19 Commissioner Alcheck: I just didn't have my mic on when I seconded.

20

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1 Chair Riggs: Do you have all that? Alright.

2 **Commission Action**: Motion to approve meeting minutes made by Chair Riggs, seconded by
3 Vice-Chair Alcheck, motion passed 5-0-2 (Templeton, Roohparvar abstained).

4

5 **Committee Items**

6

7 Chair Riggs: I don't know that we have any Committee items. Is... I don't think we have any.

8

9 Commissioner Waldfogel: (off mic) So potential agenda items.

10

11 **Commissioner Questions, Comments or Announcements**

12

13 Chair Riggs: Yeah and so I think that Commissioner Waldfogel has some potential items he'd
14 like to bring up.

15

16 Commissioner Waldfogel: Great, thanks, so there are two topics that I think we should bring to
17 a study session. The first one is a major co-working company has announced they've taken over
18 3,000-square feet on Park Boulevard. And they've also announced in the Silicon Valley Business
19 Journal that they are planning to put 774 desks in a 4,000-square foot facility which if you do

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1 the math is 20 per 1,000-square feet. Which is substantial... you know 50-feet per desk which is
2 substantially higher than all of our core assumptions about use and occupancy. I don't know
3 that we have any way today to discuss or disrupt this but I think that we should run a study
4 session on what kind of office use density we should be planning for. Because it seems to me
5 that the standards that we built into our code just may not be relevant... particularly relative to
6 this kind of use. So, I just think we need to study this, we need to know what's really going on
7 and determine if there's any action that we need to take if there's any code we need to write.
8 So that's suggestion one and I think process wise I think Staff is just looking for consensus or
9 lack of consensus on whether this is a topic worth taking up. And I have a second one after that.
10 Anyone else share a desire to study this?

11

12 Commissioner Summa: I think it's a great idea, thank you for bringing it forward.

13

14 Chair Riggs: So, is that something we think we can take on Staff?

15

16 Mr. Jonathan Lait, Assistant Director of Planning: Yeah, I mean I guess we can certainly agendize
17 a Commission discussion on this issue and I guess the question is what you're necessarily
18 looking for from us, Staff, in terms of any report or is this just a dialog between Commissioners
19 to sort of (interrupted)

20

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1 Commissioner Waldfogel: Well I think it would be (interrupted)

2

3 Mr. Lait: Because you can't talk about it now, obviously right?

4

5 Commissioner Waldfogel: Well I think it would be useful to understand the co-working business
6 model is because if co-working has a substantially different occupancy model from other more
7 traditional office use. We should just know that understand it, and we can use that to decide
8 whether we need to take any action. I don't have any bias right now but it just... this just looks
9 different from every other office occupancy that I've seen.

10

11 Mr. Lait: Ok so then what I would suggest is if you can give us a little bit of time to look at the
12 different planning information that's out there and see if there's anything to report back. And
13 we can come back and share with you what we've learned and schedule a brief discussion on it
14 and you can tell us what you want to do with it from there. Ok and assuming there's consensus
15 with or at least majority support for that among the Commission. I'm seeing heads nod, ok
16 great.

17

18 Chair Riggs: (off mic) The floors still yours.

19

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1 Commissioner Waldfogel: Ok thank you, that's great, and then the second item is... and this is
2 just a tiny little request but SB-50 is in the news. And there are... SB-50 potentially has a pretty
3 substantial effect on our ability to regulate land use which is basically what we do. I think it
4 would be helpful to run a study session on SB-50 to get some presentation. I don't know
5 whether this would be Staff originated or whether we need to go outside to somebody who can
6 brief us on what the contents of SB-50 are. This would be for us, potentially for the public who
7 may or may not be up to speed on SB-50 and so this is something I would imagine would feed
8 up to the Council. That at some point they will expect to see some information and briefing on
9 this. So, I don't know what kind of timing we could get to that but this seems like something
10 that we really should be up to speed on and frankly I am not.

11

12 Chair Riggs: Well I'd support doing some stuff on that. I don't know what the rest of the
13 (interrupted)

14

15 Commissioner Roohparvar: Sure.

16

17 Commissioner Summa: [unintelligible – off mic]

18

19 Chair Riggs: Any opposition?

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1 Commissioner Roohparvar: No.

2

3 Commissioner Alcheck: Look I'm not opposed to this idea. Maybe we could group it with some
4 other topics in the study session like the impacts of SB-35? I mention that simply because SB-35
5 is in law, SB-50 is a proposal and I wouldn't... I think we would... I think we have a better chance
6 of convincing Staff to support this from a... convincing the City Manager to sort of ok this on the
7 Staff's part if it contemplated not just hypothetical but the actual. So maybe we could combine
8 it with a couple other legislative items that are currently in law.

9

10 Commissioner Waldfogel: Yeah, I mean I would support expanding the scope to other
11 legislative action. It just... there are a whole series of Sacramento initiatives that some that do
12 control and affect us now and some that may. And I think that we should see what those are
13 and how they fit together.

14

15 Mr. Lait: So, for the ones that are pending or being considered for this legislative cycle we're
16 happy to put together a digestive what those are, a summary of the issues, and what we might
17 expect from that. So, we can put that together in an informational report to the Commission
18 and you can look at that and decide if you want to talk about it further after that or however
19 you want to approach it but we need to just collect some information for you.

20

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1 Commissioner Waldfogel: Yeah, I think that would be great and it may be helpful. I don't know
2 whether we can easily access this but it may be helpful to just look at what are the affected or
3 targeted areas under SB-50, under SB-35? I mean what parts of town? Where there are
4 different zones from some analysis that I've seen of this so I think it would be helpful to
5 understand what are we talking about?

6

7 Mr. Lait: And I... that... yeah, we... that would be great and we can include that.

8

9 Commissioner Waldfogel: That's it.

10

11 Chair Riggs: Alright, anybody else have suggestions, announcements, future agenda items?

12 Chair Lauing [note – Commissioner Lauing].

13

14 Commissioner Lauing: You have a retreat to plan, sir.

15

16 Chair Riggs: I was going to bring that up, so we'll hopefully be reaching out... we'll be working
17 with Staff to reach out to everyone on scheduling a retreat. I don't know... I don't think we
18 actually did... did you nail... did we nail down a date?

19

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1 Mr. Jonathan Lait, Assistant Director of Planning: No, we were waiting for our Commissioners to
2 talk about whether we're doing evening? If we're going... how we're going to schedule it.
3 During the day?

4

5 Commissioner Lauing: Day time... day parts was I think part of the debate.

6

7 Chair Riggs: I think we were targeting a day time meeting if we could but maybe we can handle
8 that... can we handle that offline or (interrupted)

9

10 Mr. Lait: Absolutely, I guess to the extent that Commissioners are available during the day and
11 we can focus our energy there. That there's no conflict with that then that will just allow us to
12 focus more.

13

14 Commissioner Alcheck: Before you chime in just really quickly. I think what the best scenario
15 here is we'll poll people. We'll just have an email exchange between Yolanda and the Members.
16 What times of day work best? We'll sort of collapse that into an idea and if there's really
17 division... where's there's no overlap then, in theory, we could consider a weekend.

18

19 Mr. Lait: Ok, we'll do a doodle poll or something like that.

20

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 2. The Chair may limit Oral Communications to 30 minutes for all combined speakers.
 3. The Chair may reduce the allowed time to speak to three minutes to accommodate a larger number of speakers.

1 Commissioner Alcheck: Yeah why don't we wait a sec and find out more when... avoid the
2 (interrupted)

3

4 Chair Riggs: And I think the one thing that you all can get to me and I actually had already talked
5 to Commissioner Waldfogel about some potential's items. If you have additional items that you
6 feel like are important to bring up at that point, that will help I guess me and my co-chair in
7 structuring the agenda or my Vice-Chair.

8

9 Commissioner Roohparvar: Vice-Chair.

10

11 Commissioner Waldfogel: Promotion already.

12

13 Commissioner Roohparvar: Too soon.

14

15 Chair Riggs: Alright with that I... anybody else? Alright unless Staff has anything else to do, I
16 think that we are close to adjournment. Alright, I'm going to do this just because I can.

17 **Adjournment**

18 [note – end time]

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Palo Alto Planning & Transportation Commission

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Chair Ed Lauing
Commissioner Michael Alcheck
Commissioner Asher Waldfogel
Commissioner Carolyn Templeton
Commissioner Giselle Rooparvar
Commissioner William Riggs
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