



# Planning & Transportation Commission Action Agenda: December 12, 2018

Council Chambers  
250 Hamilton Avenue  
6:00 PM

## Call to Order / Roll Call

6:05pm

Commissioner Gardias and Monk Absent

Chair Lauing: Good evening, I'd like to call to order the Planning and Transportation Commission regular meeting for December 12 of 2018. Yolanda will you call the role, please?

Ok, so we have a quorum.

## Oral Communications

The public may speak to any item not on the agenda. Three (3) minutes per speaker.<sup>1,2</sup>

Chair Lauing: It's time for oral communications. If anyone would like to speak on a subject that is not on the agenda, please give a card to Yolanda if you have not already. The cards that I have right now are for agenda items. Ok seeing none. Ok, not oral communications.

## Agenda Changes, Additions, and Deletions

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

Chair Lauing: So, are there any agenda changes, additions, or deletions from the published agenda? Ok, fine.

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1 **City Official Reports**

2 1. Assistant Directors Report, Meeting Schedule and Assignments

3 Chair Lauing: Then we'll go to City Official Report and from everything that's been happening at  
4 Council, I'd expect you to have a very long report on all this stuff that's coming back to us soon.

5  
6 Mr. Jonathan Lait, Assistant Director of Planning: Well I'd hate to disappoint you here but we're  
7 still working out the schedule for a number of items. And we got some direction from Council  
8 on the Housing Ordinance which we did present what was that December 6<sup>th</sup>? We did quite get  
9 through all those items but we did get direction on three of the five topics and we're looking to  
10 come back in the early part of next year with the Council to finish up the rest of that Housing  
11 Ordinance. But in the course of that discussion as you are referencing there was a number of  
12 asked that were identified. We anticipate going back to the City Council at some point in the  
13 early part of the year with the Work Program for the Planning Department to make sure that  
14 we're clear on different assignments that they want us to work on for 2019. So, we'll have that  
15 and we'll be able to share that with the Commission when we have that adopted.

16  
17 This is your last meeting of the year and then your next one picks up again on January 30<sup>th</sup>. I  
18 think our report indicated that the January 16<sup>th</sup> date. But that was something that we were  
19 internally thinking about but at this point, we're not prepared to go forward with that. So,  
20 we're looking at January 30<sup>th</sup> as your next date and that would include... I believe there's a

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1 rezone request and a dealership proposed. You may recall there was the Fletcher Jones had a  
2 Mercedes dealership that they were proposing a number of years back. They have since sold  
3 the property, there's new owners, and a new dealership again Mercedes coming forward. And  
4 we hope to present that to the Commission in January.

5

6 So, and then Chair I didn't know if you wanted to talk about the assignments for January now or  
7 later?

8

9 Chair Lauing: That would be fine if you'd like to do it during your report. We did have a memo  
10 here put out At Place that shows the meetings for next year's starting with 1/30 and the  
11 tentative assignments. This is always tentative at this moment because there might be folks  
12 that are gone and we just do some private negotiations. But I particularly wanted to check to  
13 see if Commissioner Summa could cover January because you're listed first with Commissioner  
14 Alcheck as the backup.

15

16 Commissioner Summa: Yes.

17

18 Chair Lauing: So, we don't need to take time to negotiate things but we can do that on our own.  
19 Did you have other... go ahead.

20

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1 Mr. Lait: I will just note that in January the Wilton Court Project will be... we anticipate that  
2 going on January 14<sup>th</sup> so you may want to just make note of that since you're representing the  
3 Commission in January. And I believe that's all of the planning related items that are scheduled  
4 though the Housing Ordinance may return on the 28<sup>th</sup> tentatively so we can keep you posted on  
5 that.

6  
7 Chair Lauing: 28<sup>th</sup> of February? I'm sorry January? Ok, it's actually listed as the 30<sup>th</sup>.

8  
9 Commissioner Waldfogel: (note-off mic) For planning or for (interrupted)

10

11 Mr. Lait: Yeah, I'm referring to the City Council.

12

13 Chair Lauing: Ok sorry, I thought you were still referring to our meeting.

14

15 Mr. Lait: No, I'm referring to Commissioner Summa's representation of PTC at the City Council  
16 and there's at least two items that I know of. If there's more I'll let you know.

17

18 Commissioner Summa: Thank you.

19

20 Chair Lauing: Ok fine. Ok, thank you for that report.

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1 **Study Session**

2 Public Comment is Permitted. Five (5) minutes per speaker.1,3

3

4 **Action Items**

5 Public Comment is Permitted. Applicants/Appellant Teams: Fifteen (15) minutes, plus three (3) minutes rebuttal.

6 All others: Five (5) minutes per speaker.1,3

7

8 2. PUBLIC HEARING / LEGISLATIVE. 3200 El Camino Real [17PLN00156]:

9 Recommendation on Applicant's Request for a Site Specific Zone Amendment to

10 Allow for the Elimination of a 50- Foot Special Setback on Hansen Way. This is in

11 Conjunction with a Development Proposal for a New Hotel on the Site Through a

12 Major Architectural Review. Environmental Assessment: An Initial Study/Mitigated

13 Negative Declaration was Circulated for Public Comment From December 4, 2018, to

14 January 3, 2019. Zoning District: Service Commercial (CS). For More Information

15 Contact the Project Planner Sheldon S. Affordable housing Sing at sahsing@m-

16 group.us.

17

18 Chair Lauing: And we'll now go onto three Action Items. The third one... the first one sorry is

19 3200 El Camino Real. A request for site-specific zone amendment for an elimination of a 50-foot

20 setback on Hanson Way. And we'll take a Staff report first and then we'll go to public comment.

21 Sorry?

22

23 Commissioner Summa: I have to recuse myself.

24

25 Chair Lauing: Commissioner Summa.

26

27 Commissioner Summa: Yes, so I have decided to recuse myself on this item. I never spoke

28 publicly about it but before I was on the Commission in 2015 and early 2016 when this... I

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1 discussed it extensively in conversations and also in email exchanges. So, I just thought it would  
2 be better so thank you to the applicant and to the public and Staff and I'll come back.

3

4 Chair Lauing: We'll come find you thanks.

5

6 Mr. Sheldon Ah-Sing: Thank you and good evening, I'm Sheldon Ah-Sing, contract planner. I  
7 have a brief presentation and overview of the project for you. So, this is a small site, it's a .61  
8 acre with an existing 36 room motel and surface parking improvements. It has frontage along El  
9 Camino Real and Hanson Way. The proposal is for an amendment to eliminate the special  
10 setback to allow the construction of a future 99 room hotel.

11

12 So, a little bit of site context here is it's within the CS Zoning District, it's a commercial district.  
13 Here's is characterized by a low-intensity element. There have been some projects that have  
14 been approved and under construction. Street frontages that I mentioned are along El Camino  
15 Real and Hanson Way. The property is 100-feet wide along El Camino Real. There's a special set  
16 back that's along Hanson Way that's 50-feet so that takes up half the property. Hanson Way  
17 does lead into the Stanford Research Park and the site is subject to the South El Camino Real  
18 Design Guidelines.

19

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1 So, a little bit of background about their request, there was a subject of two City Council pre-  
2 screening meetings and they Council did provide guidance that the special setback could be  
3 eliminated through an amendment process. They did discuss eliminating the setback through a  
4 variance application and the thought that it would be difficult to make those findings for a  
5 variance because there would have to be something physical with the property to hinder  
6 development. And also, that an amendment would not set a precedent in the area since a  
7 Zoning Amendment is a legislative action. So, the Council also provided guidance for the design  
8 of the site in that the corner plaza should have special attention and that having a coffee shop  
9 or similar use would be good for the community there. They thought that a hotel is an  
10 allowable use and that there was no compelling reason to maintain the special setback on the  
11 property.

12

13 So specific requests one of them here before you is the setback amendment that is reviewed by  
14 the Commission, your recommendation would be the City Council to consider and the other  
15 side is the Architectural Review and that's being reviewed by the Architectural Review Board.

16 And they would forward a recommendation to City Council, the Council ultimately decides on  
17 this project and that's to construct a 4-story, 99 room hotel with two-level basements.

18

19 So, a little bit of history on the special setback, it was established in 1959 and this was after the  
20 existing motel hotel was constructed and operating. So, there's no real specific reason for the

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1 setback that we could find. However, we're thinking that it was established for future street  
2 widening as well or for perhaps landscape reserve. The adjacent building does not conform to  
3 the setback and that was also constructed after the setback was established. It provides a 36-  
4 foot setback and as I mentioned before the setback limits development of half of the property.  
5 And that setback does hinder development above ground as well as below ground. You can't  
6 have parking within that setback.

7

8 So, let me get to some visuals and this is where we show that 50-foot setback on a site plan.  
9 There is a 19-foot right of way from the curb in towards the property that's along Hanson Way  
10 to give you a little bit of perspective. They are developing a detached sidewalk, a 6-foot  
11 sidewalk along Hanson, and there will be a row of trees that will need to be replaced along  
12 Hanson Way. And then along El Camino Real you've got the 12-foot set... sidewalk that will be  
13 established and that's consistent with the South El Camino Real Guidelines.

14

15 This is a good graphic, this is in your plans and Packet showing the setback relationship and  
16 they just happen to put a nice detail, that glass, that shows where that setback is in relation to  
17 what they would be proposing. And then you can see of course the building that is also within  
18 that setback. And while not for consideration this just shows what would be developed on the  
19 property and what's being considered. These are some project perspectives in architectural  
20 details.

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So along with the project, there is CEQA analysis and that's a Mitigated Negative Declaration initial study that's being circulated presently. It started circulation on December 4<sup>th</sup> and will end on January 3<sup>rd</sup>. There are some potentially significant impacts to air quality, biological, cultural, geologic hazard resources and there is a mitigation that is being proposed to reduce those impacts to a less than significant. So, after the reveal of the project, the initial study Mitigated Negative Declaration the Commission will recommend adoption or provide comments or recommend changes as they may deem necessary.

So next steps here, we want to complete the circulation of the environmental document, respond to any comments, the ARB meeting is scheduled for next week and there's recommendation for them to move the project on to the Council. And the City Council would follow the ARB meeting and they would adopt the Mitigated Negative Declaration and a decision on a setback amendment as well as the architectural review.

So, the recommended action here... motion would be to recommend to City Council adoption of the Mitigated Negative Declaration and approve of the setback amendment to allow the elimination of the special setback. So that concludes my presentation, the applicant has their presentation, we also have the environmental consultant here if you have any questions on that document. Thank you.

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Chair Lauing: I think we're going to give the applicant time to speak at this point. Did you want to speak to the project? You have to up 15-minutes in total.

Mr. Yatin Patel: (off mic) Good evening Chair Lauing and to all the Commissioners. My name is Yatin Patel. Thank you for taking the time (unintelligible – off mic) Packet (unintelligible – off mic) tonight. (unintelligible – off mic) I'll be brief in my introduction. My family has lived in (unintelligible – off mic) Palo Alto since the late '70s, early '80s. My family business is (unintelligible – off mic) as long as I've been alive. I was raised here, (unintelligible – off mic) along with my wife and 2-year old son and (unintelligible – off mic) daughter. (unintelligible – off mic) community our entire lives. This community and City mean a great deal to my family, these are our (unintelligible – off mic).

As you may know, we have two productive meetings with City Council regarding the setback issues. (unintelligible – off mic) setback (unintelligible – off mic) and have invested our hard-earned money from the operations of our family business to make this a reality.

The current hotel was built in the '40s. We served countless business travelers of the Stanford Research Park (unintelligible – off mic) and those (unintelligible – off mic) in Stanford since the late '70s, early '80s. Our location is something travelers love because it provides easy, walkable

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1 access to their offices in the Research Park and walkable/bikeable access to the University. We  
2 have an opportunity now to provide these visitors with a product that better reflects the  
3 (unintelligible – off mic) standards of Palo Alto.

4  
5 Thank you for your consideration of the Zoning Map Amendment. It would allow us to replace  
6 an aging building and improve our family business while contributing to the community both  
7 aesthetically and financially. Equally as important it would allow us to set down our roots for  
8 what I personally hope is the next 70 plus years.

9  
10 Our team is here tonight to explain our proposal and assist in your discussion anyway we can.  
11 With that, I'll introduce James Heilbronner our architect (unintelligible – off mic) presentation.

12  
13 Chair Lauing: Ok I just want to remind everyone who's watching that our purview is strictly with  
14 respect to zoning on the special setback elimination and the Comprehensive Plan as always. So,  
15 it's ARB that's going to be looking at all the design issues, that's not in our purview so carry on.  
16 Thank you.

17  
18 Mr. James Heilbronner: (Off mic) Good evening, my name is James Heilbronner, architect for  
19 the project, I just have a few slides that mimic Sheldon's presentation to just further enhance

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1 what we're doing. The aerial up on the screen is a 1948 vision of the front... I'll wait for you.

2 (unintelligible – off mic) Yeah, how's that? No?

3

4 Chair Lauing: About the same.

5

6 Mr. Heilbronner: (off mic) I can yell.

7

8 Mr. Ah-Sing: Chair (interrupted)

9

10 Mr. Heilbronner: (off mic) Hello? No?

11

12 Commissioner Riggs: Thank you. Maybe... it's probably fine to... it is ok? We just keep with the  
13 flow and just take it from down here. That would be... thanks for being flexible with the  
14 technology.

15

16 Mr. Heilbronner: Yeah, absolutely.

17

18 Commissioner Riggs: Really appreciate it.

19

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1 Mr. Heilbronner: Perfect, thank you. I'll start over so the 1948 version or around when the hotel  
2 was constructed, going back in Google land, a lot of open space, farmland on the state highway.  
3 This is a picture of the hotel at that time and this is an aerial of the hotel today where things are  
4 pretty fairly well developed around in the business park. The site is about 276-feet by 100-feet,  
5 the setback literally splits the site in half making the purple side not developable, and leaving  
6 the other 50-feet for land uses that are... I don't want to use the word impossible but pretty  
7 improbably to develop on a 50-foot swath of land.

8  
9 So, this goes back through the Zoning Ordinance that was passed in the '50s to overlay for what  
10 we believe is the setbacks... the park-like setbacks of the business park which was a new idea at  
11 the time, business parks, in a new landscape setting. A lot of the sites in the business park are  
12 not landscaped completely in 50-feet, there's parking in it, and the neighbor next door  
13 encroaches into it for reasons unknown. But we feel strongly that the setback doesn't really  
14 take into account or didn't the geometry and texture of the site that's along El Camino in the CS  
15 Zone. So, the slide that Sheldon showed was our attempt to demonstrate what a 50-foot line  
16 does on the proposed project where it slices the building literally in half and makes this outer  
17 component not viable.

18  
19 So, the history of the setback we gave, we talked about it a bit. We've deliberately stepped the  
20 building back along Hanson and on El Camino to respect massing design and trying to eliminate

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1 or reduce the amount of building at... would be in today's setback as a comparative. So, we  
2 were sensitive to the mass and respecting the frontage particularly along Hanson. And the  
3 north corner up against the fish market which is a... those are 1-story buildings here on the  
4 northern edge so we stepped the building back so that the protruding component is 1-story.  
5 The Hanson Way frontage is unique in that there's more City property there than normal.  
6 Again, it's about 19-feet from the curb to the property line and within that area, we're  
7 proposing to... in coordination with Staff wanting a parkway and a sidewalk and more  
8 landscaping in lieu of the existing condition which is a sidewalk up against the curb so it's a little  
9 different configuration. The street trees would go out in the parkway and we have landscaping  
10 inbound and we'd be responsible to maintain that continuously.

11

12 The other issue here that we brought to the table is, first of all, we've eliminated parking from  
13 the site. We've buried the parking underground so there is not visible parking. The... that opens  
14 up the site to more open-air space, particularly on the corner for a plaza which was a key  
15 element that the Council was interested in seeing. So, the plaza serves the public and it's an  
16 adjoining café that's part of the hotel first-floor level.

17

18 Traffic issues and parking, parking we meet the code required parking for a hotel and spaces for  
19 the café and the traffic study was... showed less than 100... about 82 peak demand traffic trips.

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1 That does not warrant additional traffic study and the flow of hotel traffic is anti-peak hour  
2 traffic.

3

4 This basically overlays the existing building in red that makes this giant U-shape and the gray  
5 area is the new building so there's more openness to the site. We're eliminating the hotel here  
6 from the edge that really turns its back on the street. There's no windows there so this would  
7 be an improvement to its openness and transparency to the site and this shows the building  
8 area coverages that's in the package. As does the back part I was just talking about the  
9 openness factor on the site. The yellow is the footprint of the hotel so that shows that we have  
10 a lot of open space around the hotel and we're going actually to pick up space on the corner  
11 with the elimination of the pork chop. So, this existing free right turn lane will be captured onto  
12 the site for landscaping and plaza.

13

14 So, this is a picture of existing today, 2-story hotel, 36-rooms, and the 99-room, 4-story setback  
15 off of the street and the plaza. This is Hanson here and this is El Camino. Thanks.

16

17 Chair Lauing: Ok thank you.

18

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1 Mr. Lait: So, Chair, we're clearly having some technical difficulties. I believe we're going to try  
2 to see if we can get that resolved but, in the meantime, if we have speakers, that we'd ask  
3 them to come sit in this area here. So, I don't know if you have any speakers on this item.

4

5 Chair Lauing: We do not have any speakers on this item.

6

7 Mr. Lait: Ok so then if you had any Q&A that would take place here and then we'll deliberate.

8

9 Chair Lauing: Yeah, ok. This is not a quasi-judicial matter but I'd still like to do disclosures of  
10 anybody that had contact with the applicant and so I will start by saying I did a walk of the site  
11 with the architect. Does... if anybody else has any disclosures? No? Ok, alright, then we'll start  
12 with Commissioner comments. Commissioner Alcheck.

13

14 Commissioner Alcheck: Hi, thank you, welcome. Ok, a couple quick questions. I was curious, do  
15 you... does... would you... would the operator... really the owner come forward because I have a  
16 few questions about what you've got now. And so, would you summarize for me the number of  
17 units that you currently are operating?

18

19 Mr. Patel: Currently we have 36-units.

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1 Commissioner Alcheck: Do you know how many parking spaces you have?

2

3 Mr. Patel: 35 or 36.

4

5 Commissioner Alcheck: I'm just curious because every time we have a hotel operator in it's like  
6 an opportunity to ask a few interesting questions. I'm... are you at capacity in terms of your unit  
7 occupancy regularly?

8

9 Mr. Patel: You mean like if (interrupted)

10

11 Commissioner Alcheck: Do you have a full hotel multiple times a year?

12

13 Mr. Patel: What's that?

14

15 Commissioner Alcheck: Do you have a full hotel multiple times a year?

16

17 Mr. Patel: We do.

18

19 Commissioner Alcheck: Do you feel like the parking that you have is adequate?

20

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1 Mr. Patel: It's more than adequate. In my 30 plus years of just observing typically Monday  
2 through Thursday, it's very busy. We could be full, you could drive by and you would think that  
3 we're an empty hotel just give the scarcity of cars in our parking lot.

4

5 Commissioner Alcheck: Is that because most people are using different modes of  
6 transportation?

7

8 Mr. Patel: Yeah so, I think now more folks are using Ubers or Lyfts. Some companies have  
9 transportation provided so they'll pick up at the hotel so I think less travelers are renting their  
10 own cars for a few nights.

11

12 Commissioner Alcheck: Ok, I was asking this question because I wondered if there was... I mean  
13 you're pretty far along in your architectural vision. So, I won't suggest changes but I did  
14 contemplate whether or not there was an opportunity for some alternative... you know I see  
15 you have a coffee shop. Maybe that could evolve into something else and that would be a  
16 conversation I think you'd want to have with planning now or before you go to Council.  
17 Whether you could ever host something more complex than just a coffee shop if you will and  
18 whether the... I wanted to instill in your mind the notion that some of that parking could  
19 potentially be shared. So, if there is ever an opportunity to create a retail facility inside that of  
20 that lobby or whatever I'm not really sure...I don't really... I haven't studied the layout of your

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1 internal layout that much but I guess my point is that it's still on El Camino, it's still very close to  
2 California, it's still hopefully will continue to evolve into more pedestrian-friendly space. That's  
3 really a significant portion I think the Comprehensive Plan alignment here has to do with  
4 making that corner more pedestrian friendly. Making the building more pedestrian friendly and  
5 so I just want to raise that in your mind. I think you will have an abundant amount of parking to  
6 satisfy the public uses if you will or public inviting uses and you may want to consider those.

7

8 Ok, I'll just sort of summarize how I feel about it for the purpose of the Commission. I found  
9 that the applicant's project proposal really satisfies a lot of the goals for our Comprehensive  
10 Plan that should create support here. So, what I would like to do and I'm happy to wait but I  
11 would like to make a motion in support of the recommendation that Staff has made.

12

13 Chair Lauing: I think that's fine and then we can just continue the conversation.

14

15 MOTION #1

16

17 Commissioner Alcheck: Ok so I will make that recommendation that we recommend approval...  
18 that motion that we recommend approval of the proposed setback amendment to City Council  
19 based on the findings that are laid out I think very clearly in our Staff report.

20

- 
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1 Chair Lauing: And a second?

2

3 Commissioner Riggs: No, I'd like to discuss (interrupted)

4

5 Chair Lauing: We can discuss it when there's a motion is on the table, that's fine. Did you want

6 to (interrupted)

7

8 Commissioner Alcheck: You don't have to second it.

9

10 Chair Lauing: No.

11

12 Commissioner Alcheck: It can be somebody else.

13

14 Chair Lauing: So there... if discussion before a second, that's fine. Alright, so what... you haven't

15 commented yet on the actual setback which is the core of our (interrupted)

16

17 Commissioner Alcheck: Yeah, no I'm about to... I was going to speak to it. I didn't think that... so

18 I believe the elimination of this setback makes a lot of sense. I'm not... it was really difficult for

19 me to really appreciate how this came about and I don't know that the Staff really had a clear

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1 idea of how this could continue to make sense and I think that that's why we see the Staff  
2 support for the setback.

3

4 I was particularly convinced that the change was... posed little threat of determent to  
5 residential areas just by simply how far away the property is from the nearest R-1 parcel. And  
6 so, one of the things that I think... we use to have... we had in the past a discussion about this  
7 notion of what's called a gap tooth on El Camino. This property doesn't really have that  
8 problem because the setback is off of the side street as opposed to the El Camino frontage. And  
9 so, it's sort of a different idea but I think the crux of the concept remains which is to say that we  
10 don't really want the buildings that are front El Camino to have these patterns of front and back  
11 and front and back. That creates a really disconnected presentation and so I think that that is an  
12 important component here.

13

14 I wanted to just add that I think... I sort of reviewed the minutes of the Council meeting as well.  
15 I don't know if some of you had the opportunity to do that. I took some notes on that and I  
16 think I was particularly... I guess you could say impressed with the unanimity of the Council  
17 directive on encouraging Staff to bring this amendment to us. And so, I could be more specific if  
18 any of you are interested and quote each of the Council Members that will be on the Council  
19 next year if you'd like but... I don't have to do that but I did think that was interesting. And so, I  
20 can... if I don't get a second, I can come back to it after the rest of the Commissioners speak.

- 
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Chair Lauing: Ok, thank you. Commissioner Riggs.

Commissioner Riggs: Well I'd like to thank the applicant. I don't need to ask you any questions but I need to ask Staff three questions. So, I mean I guess the first question is do we... is there an effort to... we know that there's going to be a behavioral tendency to for TNC... sorry, Uber and Lyft transportation network company to pick up and drop off at the site just based on the demographic trends. Is there an effort to extend the red curb? I am assuming there is... there is an existing red curb on the existing slip lane. Is there any effort to extend that to prohibit the TNC drop off on El Camino? Because that's going to be a natural tendency to have transportation network company pick up and drop off on El Camino Real. That seems to be a City... almost a City issue that needs to be dialog because it may extend into the other property owners. I just think that's really the first thing that I want to bring up, has that been discussed? Should it be discussed? Has there been any thought about it?

Mr. Ah-Sing: Yeah that particular issue on El Camino Real was not discussed.

Commissioner Riggs: Well I... so ok, we can... I think we should talk about it. I think that's a... there's going to be a natural tendency for patrons to actually want to get dropped off quickly on El Camino. There's going to be a [unintelligible] just based on the cumbersome turn around

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1 that actually is embedded in Hanson to make that behavior. So, there's going to be a behavioral  
2 tendency to engage in a pickup and drop off behavior at that point, particularly with the loss of  
3 the slip lane. It's going to be a more gracious and slow turn.

4  
5 I guess the second thing is do we understand and has there been any assessment of any  
6 potential queuing given the loss of the... and didn't see that given the loss of the slip lane. I  
7 didn't see that in any of the presentations. Clearly, I'm not talking about occupants of the site  
8 but if we aren't looking at a potential queuing model, I think we ought to... that ought to be a  
9 consideration so do you have any data on that?

10

11 Mr. Ah-Sing: Let me look into the traffic section.

12

13 Commissioner Riggs: So maybe I can just keep going then. Do we know the pedestrian volume  
14 at that intersection and the anticipated increased in pedestrian volume given this?

15

16 And then I guess the third question would be... well, I guess... it's not clear what the  
17 intervention is at the ingress to the parking area and whether... from the graphs that were  
18 provided, I cannot see the detail on what the intervention is with the bike lane to delineate that  
19 it's a danger area from a bike/ped conflict standpoint so I'd want to make sure that I  
20 understand that.

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2 Mr. Lait: So, I may just offer some preliminary marks and thank you for those questions and  
3 we'll try to answer those to the extent that we're able too. Just to be clear and not to be... we  
4 didn't analyze those for this Board because what's before you is the discreet task of the  
5 setback, the special setback and reducing that from whatever it is 25 or 50 to 0. So that's the  
6 discreet... that's why the Staff report didn't focus on that and we didn't get into those details.

7

8 Commissioner Riggs: Well it has ripple effects, right? You do... so go ahead... yeah.

9

10 Mr. Lait: So, understood, if there are implications of changing the setback and how that effect  
11 design then absolutely. These are... that's relevant to the conversation and so we may have  
12 some more specific information but I will note that our transportation... the Office of  
13 Transportation has looked at this. And it's... I think at our initiation that we've asked for some of  
14 these changes that have taken place or proposed to take place on El Camino precisely to  
15 facilitate and improve pedestrian and bike improvements. But I'm beginning to tread outside of  
16 my comfort zone of information so I'm going to pass it on over here to our experts.

17

18 Ms. Amie Ashton: I'm Amy Ashton, I'm with David J. Powers and we prepared the  
19 environmental document. We did not... as Jonathan said we did not do an in-depth queuing  
20 analysis or pedestrian counts. Most of the improvements were driven by the City's Public

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1 Works Department consistent with plans and the Comprehensive Plan and pedestrian plans  
2 that the City has. As far as the environmental impacts of those types of changes, its kind of  
3 outside of the CEQA purview so we did not do a really in-depth analysis on that, unfortunately.

4  
5 Commissioner Riggs: I... it's out of the CEQA purview to look at emissions from queuing and the  
6 moral implications of putting in... I don't see how it's... I'm sorry, I don't see how it's out of the  
7 CEQA purview but (interrupted)

8  
9 Ms. Ashton: Unfortunately, it's (interrupted)

10  
11 Commissioner Riggs: It seems like it's in Appendix G to me.

12  
13 Ms. Ashton: Yeah level of service impacts do not necessarily take into account.

14  
15 Commissioner Riggs: But these are VNT impacts. I know CEQA (unintelligible) has (interrupted)

16  
17 Ms. Ashton: I hear exactly what you're saying as a cyclist, I hear exactly what you're saying but  
18 that's not what our CEQA document is intended to do, unfortunately.

19

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1 Mr. Lait: So, I mean we're not... I mean I don't have the numbers and maybe you can tell me  
2 what the numbers are but we're not anticipating a significant increase in vehicle trips to this  
3 location. And had we there would be other factors that we would study and analyze so  
4 (interrupted)

5

6 Commissioner Riggs: Fine, I mean I thought this was the case so I would just recommend... I  
7 mean I'm fine... the setback has implications. To me, in my mind, the setback is not... it's the  
8 implications that are driven by the setback and how you use that space and how you... I think  
9 the intent of Council when they were having this dialog was to create a place where people...  
10 once their vehicles may be parked at this place at this former motor inn because we are going  
11 to have a lot of parking there that they could stay parked and could become pedestrians. So,  
12 there will be an applied increase in pedestrians and I don't see that the pedestrian scale  
13 improvements that Council called for in their comments are really being invested for. There's a  
14 5-foot sidewalk, there's going to be a tendency for TNC drop off that is in a dangerous location  
15 on a really busy corridor, and I think that they're not... right now there's not a thorough look at  
16 potential conflict along the bike lane. And so, I think those are three additional suggestions I'd  
17 make in approving the setback because the setback has these. They are direct implications of  
18 how we use that space so I see them as critically linked to whatever decision that is made on  
19 this setback.

20

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1 Commissioner Alcheck: (off mic) Can I... I'd like to ask you a quick question.

2

3 Chair Lauing: Quick question from Commissioner Alcheck.

4

5 Commissioner Alcheck: Yeah, I just want to understand so I... is there a reason why you don't  
6 think they're going to queue up right in front of the lobby which has a turnaround?

7

8 Commissioner Riggs: No, I think the natural (interrupted)

9

10 Commissioner Alcheck: I don't... maybe there are more than one entrance but I thought that  
11 the main entrance of the hotel and the lobby was going to be set in... I don't (interrupted)

12

13 Commissioner Riggs: Its set in Hanson Way. I do not think that TNC will use that, I think there  
14 will be a natural tendency to drop off along El Camino which is the primary service corridor for  
15 this.

16

17 Chair Lauing: Right but if we're focusing (interrupted)

18

19 Commissioner Riggs: You're asking a detailed question.

20

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1 Commissioner Alcheck: I guess what I'm asking is (interrupted)

2

3 Commissioner Riggs: It actually hasn't been studied and we're talking red paint and  
4 (unintelligible)(interrupted)

5

6 Commissioner Alcheck: I guess what I'm asking is if there was a no stopping sign... I mean are  
7 you suggesting that you would have a problem with the hotel or the enforcement of our local  
8 City street code? That's what I'm trying to understand. Is this really the design issue or is this  
9 (interrupted)

10

11 Commissioner Riggs: I think the applicant needs to sit down, they are making me nervous.

12

13 Chair Lauing: Right so I think the issues that you're raising and that you just asked questions  
14 about are sort of potential issues that are caused by the setback and quite reasonable for the  
15 City to be considering. But I'm not sure how that... I'm asking you how... if we need to address  
16 that in the context of a motion to approve or not approve (interrupted)

17

18 Commissioner Riggs: Well I would... I think (interrupted)

19

20 Chair Lauing: As opposed to listening to your comment.

- 
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Commissioner Riggs: In my mind, these things need to be... the implications on this... the pedestrian sphere needs to be a part of the findings and there needs to be more of an effort as this project goes forward to address them. And I think there are pick up and drop off implications, implications for conflicts with bicycles that are on Hanson Way that are accessing the parks that are behind it, and there's not adequate interventions... even with the eliminations of the pork chop, there's not adequate interventions for the increased volume that this project will generate.

Chair Lauing: I happen to agree with you as one Commissioner but I'm saying that with your comments which are sort of physically outside of the issue of the setback removal or not. Do you think that gets us there with respect to notifying the City that they have to do (unintelligible) (interrupted)

Commissioner Riggs: I don't think that they are, I think most of this is the responsibility of the applicant. It's on the applicant's property.

Chair Lauing: But not if it's red curbs and things like that.

Commissioner Waldfogel: (off mic) Is this part of the project review or (unintelligible)?

- 
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Mr. Lait: Yeah so (interrupted)

Chair Lauing: Yeah, I mean we're just on the setback review.

Commissioner Riggs: Well I mean it seems to me that it would be linked to the setback.

[note – many Commissioners starting speaking at once off mic]

Chair Lauing: Well let's see what Commissioner Alcheck... I'm sorry, Commissioner Waldfogel has to say and then we'll... you can have another shot if you'd like. Commissioner Waldfogel.

Commissioner Waldfogel: I'm up? Ok, so I think we all agree that a more modern hotel would be a useful amenity and this does look like a good project subject to various views, ARB, traffic. I mean we need to understand these things but I will say we're at an awkward point for discussions about El Camino Zoning. At our last meeting, we had a long discussion about El Camino bike lanes. It's clear that there's a lot of work that we need to do on El Camino but my big worry about this proposal is that we've previously changed zoning for other sites based on project proposals that we've seen and then those projects don't get built. So, an example of that is the Ming [note – sounds like Ming] site that Assistant Director Lait just mentioned

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1 relative to an auto dealership that was originally rezoned for hotel. The hotel was never built  
2 and now we're, I think, at the second iteration of a car dealerships. The underlying zoning on  
3 this site is CS so I guess the question for Staff is there's a way to link this setback change to the  
4 project in some fashion? The thing that I would hate to see happen is to approve the setback  
5 change and then see the applicants say, you know that project was a really great idea but here's  
6 an even better idea that's a higher and better use for the parcel. So is there a way for us to link  
7 these things together so that way the project can get the review that Commissioner Riggs is  
8 asking for but I think these things need to be decoupled.

9

10 Mr. Albert Yang, Senior Deputy Attorney: So, the Commission could recommend that the  
11 change apply to hotel uses for examples only. I don't believe there is a way to link it to the  
12 particular identity of the applicant.

13

14 Commissioner Waldfogel: There's no way to actually say this is an approval for a new setback  
15 for this project or subject to some other element conditions with this project? Because I think  
16 that would be my preference because that why we could also incorporate Commissioner Riggs's  
17 concerns about traffic into those project conditions.

18

19 Mr. Yang: Yeah, that would not be possible under our current code.

20

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1 Commissioner Waldfogel: Do you... well, do you have any suggestion?

2

3 Mr. Yang: I think it could be linked to a use category but not to a specific project.

4

5 Mr. Lait: And I think there's another way that we could also get to Commissioner Riggs's  
6 comments during the review... through architectural review and ultimately to City Council as  
7 well.

8

9 Commissioner Waldfogel: Right but architectural review doesn't include the CEQA review, does  
10 it?

11

12 Mr. Lait: It's... yeah, it's part of that.

13

14 Commissioner Waldfogel: Yeah so, we can get (interrupted)

15

16 Mr. Lait: But this is (interrupted)

17

18 Commissioner Waldfogel: But that won't happen next week if that work hasn't been done. We  
19 (interrupted)

20

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1 Mr. Lait: Well no so I don't know... I mean I hear the comments about CEQA. I don't know that  
2 this rises to the level of environmental impact. I mean there may be something that we need to  
3 study from... to advance our local interest on promoting a safe and pedestrian and bike  
4 environment. And we're hearing very clearly the concerns that Commissioner Riggs addressed  
5 and we can work with our Transportation Office to vet this out a little bit more. And if you go  
6 forward with this and you have a recommendation, part of that recommendation could be that  
7 the Architectural Review Board pay particular attention to the interfaces here as they examine  
8 the project. So, we can look at that as well so I mean there are points along the way where we  
9 can address those issues. And for your comments, it seems like it's more tied to the use as  
10 opposed to the individual applicant or project that's (interrupted)

11

12 Commissioner Waldfogel: So, we can be more specific than just any permissible CSUs is what  
13 you're saying?

14

15 Mr. Lait: What I heard (interrupted)

16

17 Mr. Yang: That's correct.

18

19 Commissioner Waldfogel: Ok because I don't think we've taken up a motion like that in the  
20 past, ok. That's... let me think about that.

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Chair Lauing: Well, I have a couple comments first. So, this is a legislative... just want to confirm, this is a legislative action eventually so there's no precedent setting here. So, if the 50-foot setback is as requested that doesn't have any implications for any other part of that 50-foot setback which continues down Hanson Way, correct?

Mr. Ah-Sing: That is correct.

Chair Lauing: Ok and then you also referenced on Page 12 the necessity for a CUP. Did I understand it correctly that won't come to us? That you're going to take that straight to Council?

Mr. Ah-Sing: So, we did initially take in the application with a CUP because the operation is... of a hotel happens between 10 pm and 6 am. Typically in the Zoning Code, it does address if uses are late night that are adjacent to residential uses. There are no residential uses that are within the radius of what the code says but it does say something to the effect that uses operating between that time. So, with that said we are... I think we're thinking about taking that CUP out of this review because we don't think it's applicable (interrupted)

Chair Lauing: I see.

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Mr. Ah-Sing: At this time. They may want to come back later, the applicant that is because they do want to serve alcohol on site and that would require a CUP.

Chair Lauing: Ok. Yes, I... my other comment happened to be very consistent with what Commissioner Waldfogel was asking about and the answer. I think we do need to... if we do this it can't be a... we're giving away a lot of land so we should control the usage on that. And it can't... I don't think it should just be any old commercial because that can mean an office building or something. So, I think that if we're going to do this and it's not housing, that we should tie it to office and I... I'm sorry, to hotel. And so, I would like to see that added to this if we go ahead and approve it.

With respect to the actual setback having walked the site and studied the plans I think it's very valid that we approve that aspect of this. And that's again the core of what we're trying to address tonight is approving the setback. So, I'd be interested in a motion that would approve this subject to having it being tied to a hotel usage and obviously looking at the potential areas of... area around there with respect to normal traffic flow, pedestrians and so on.

Mr. Lait: Just a question on that, if... you know we've been having this recent discussion and the Commissions been having some discussion too about bringing parody to our Residential

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1 Development Standards as it is relative to our Commercial Standards. It strikes me as I'm  
2 hearing this conversation that the types of uses that you might encourage or want to  
3 encourage with this setback includes a hotel as proposed but also potentially residential. And  
4 so, I'm wondering if in your consideration of the limitation in which this special set could be  
5 used, if that instead of it just being for hotel, if you might also extend that to be for a future  
6 residential project as well as part of that consideration.

7

8 Chair Lauing: If that fits within the zoning that we're trying to get to tonight, I'd be fine with  
9 that.

10

11 Mr. Lait: I mean it just strikes me that if we're... I understand... I think I understand clearly  
12 where the Commission is going with respect to... you know this is... you know its an ask and we  
13 may have some certain land uses that we're trying to promote over others and if it's one of  
14 those then this setback seems appropriate to reduce. And if... I would just offer for  
15 consideration that if we're... if that's something that we're willing to consider for a hotel, might  
16 we also want to consider that for residential.

17

18 Chair Lauing: Right but it's a CS district so.

19

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1 Mr. Lait: Right and you're... you've reviewed recently we're making some changes to those  
2 zoning areas that would also permit something like that.

3  
4 Chair Lauing: Yeah, no, as a priority for the City I think housing I think would a be a higher  
5 priority anyway but there is a hotel there and we don't want to disrupt that. That's not the  
6 intent. And then just a timing question on CEQA, it's just out for public comment now. Do we  
7 not want to have that finished where we opine on that and in fact, I don't think we have to  
8 opine on it? We just have to look at CEQA which we've done tonight.

9  
10 Mr. Lait: Right so your charge is to consider it in your recommendation and when we go to  
11 the... CEQA provides that we have these reviews with recommending Boards before we get to  
12 the final decision-making Board which is, in this case, the City Council. So, we have to conclude  
13 the CEQA process before we get to the City Council but we'll take your comments that you  
14 make here and any other comments that we get from the public, address those and present  
15 that to the City Council when we get that. So, we do not have to be complete with the CEQA  
16 process for this hearing.

17  
18 Chair Lauing: Right.

19  
20 Mr. Lait: Well will for the City Council.

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Chair Lauing: Ok so I agree with the gist of the conversation from Commissioner Waldfogel that we should be talking about the zoning part of this tonight and not the specific project because the project that we have in front of us could also change. The architect could wake up in the middle of the night and build something entirely different. So, it's not just this specific project, it's the issue of on that site it's if a 50-foot setback is required and I'm convinced that it's not required. So, since we've been through one round of comments and I'll get the (interrupted)

Commissioner Waldfogel: (off mic) Can I ask the applicant if he has any concern about that restriction?

MOTION #1 FAILED DUE TO THE LACK OF A SECOND

MOTION #2

Chair Lauing: No. So, having been through one round of comments, just to move it along, I would move that we adopt the zoning change relative to the 50-foot setback as long as it is tied to... what's the best way to say this? Hotel or mixed use?

Commissioner Waldfogel: Residential?

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Chair Lauing: Mixed-use, residential, whatever the right wording is there. And I don't think we necessarily have to approve... I'm not specifically making... including that motion any comment on CEQA at this point. So, if we can get a second on that we can continue the discussion.

SECOND

Commissioner Waldfogel: I will second that motion.

Chair Lauing: Ok it moved and seconded and we'll continue discussion and Commissioner Alcheck.

Commissioner Alcheck: Ok so I did not anticipate your comments and I will always defer to your professional expertise when it comes to the traffic situation. That said I... one of the suggestions that Commissioner Waldfogel made early was this notion that we would tie the recommendation to a specific design. And there's... this isn't the first time we've had that kind of discussion before and I really struggle with the logic behind that kind of suggestions and even the effect that such an action would have. And I understand that you, our counsel, is kind of giving us guidance that that's not an option but I want to sort of explain the predicament that we're in here. We have unfortunately a process of leadership that struggles to make decisions

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1 on recommended changes to the code without a clear articulation of what will the result be of  
2 that change. And it's not just our leadership, our community, in general, is very cautious and so  
3 a physical model or design has to be created to represent if we grant this change what will it  
4 look like? So, there was a pre-screening and then there was a follow-up pre-screening and then  
5 there was an ARB meeting. And all of that is... it's a type of process that in my mind is  
6 problematic because it only allows current owners who are in a position to reinvest the  
7 opportunity to be creative. And it forces Palo Alto property owners to invest a substantial  
8 amount of funds in designing a project that they have no legal right to build. They are far away  
9 from the entitlement without the zoning change and that's a tremendous risk. And then the  
10 consequences that when we arrive at this meeting, we're forced to review this zoning change in  
11 its bubble right but we're forced to acknowledge that even subconsciously that we are  
12 reviewing something that's been pre-screened, vetted by Council, as a result, our review  
13 becomes sort of a compulsory step in that process... in that ladder of realizing a vision that's  
14 been agreed upon by higher-ups. That's how I feel about this situation right now. We have a  
15 very informed and experienced Commissioner who might have some concerns about some  
16 traffic issues that are being created by the design and the design was basically a required hurdle  
17 that had to be put forward in order for the Council to consider or to give support to the notion  
18 that they would even allow the zoning change. On a very simple level, this 50-foot set back  
19 makes no sense on this parcel. It creates a parcel which is literally undevelopable in a modern  
20 framework. This is not the kind of setback, even if we were... even 30-years ago we wouldn't of

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1 designed... I mean we don't, we don't have any other properties anywhere in Palo Alto that  
2 have a setback that represents half the available lot from a side street. So, everything about this  
3 just strikes me as an obvious change that we would want to encourage the... I guess the best  
4 use of the parcel. So, the parcel is in a sense handicapped by a code that we don't really  
5 understand why. We don't have good context of why was this there and why didn't it get  
6 cleaned up in the past?

7

8 And so, I'm a little... I mean look I can tell you that I enjoy the design or I don't enjoy the design.  
9 I'm uncomfortable even having that conversation because that doesn't feel like it's within my  
10 purview. I think the real question (interrupted)

11

12 Chair Lauing: Correct, that's correct.

13

14 Commissioner Alcheck: Here is does this 50-foot setback require this design and I don't think it  
15 does. I think any number of designs could theoretically be implemented here and some of those  
16 might improve the traffic situation, some will make it worse, bear with me, bear with me here.  
17 And I think that if you now suggest that... here's where it gets problematic if we suggested that  
18 this be... if we could legally tie this to the design that would be problematic just from the  
19 standpoint of, I don't like a process that doesn't allow us to create a framework that makes  
20 sense. So that property owners in this City can develop their properties or investors who wish

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1 to come to the City can understand the rules as opposed to only applicants who own parcels  
2 who are willing to invest all that effort and time. That's a problem with our process, it really is  
3 so I guess what I would suggest now is tying the project is a problem. I understand... its sort of  
4 like the ultimate level of skepticism is to suggest that we would only allow it for this design  
5 because it tells our local property owners that despite the process, we've subjected to you and  
6 all the reviews we believe that this is the only option we could live with. And maybe because of  
7 an underlying concern that someone may come after you and change it (interrupted)

8

9 Commissioner Waldfogel: Point of order, that's not the motion that you're speaking too.

10

11 Chair Lauing: We still need to speak to just the setback.

12

13 Commissioner Alcheck: Yeah no I'm... my hope is that we can agree as a Commission that the  
14 project's design should not be (interrupted)

15

16 Commissioner Waldfogel: The motion doesn't say anything about the project's design.

17

18 Commissioner Alcheck: I know, I'm trying to create support. So, my impression was that there  
19 were some Commissioners that may not support this amendment because they feel its to tied  
20 to the design. That may not be you, even you suggested at one point that you wanted to tie it

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1 to the design. I'm not suggesting that you're that Commissioner, I'm really sort of addressing  
2 the group saying I think we need to separate this design from the thing as much as we can.  
3 Including the traffic implication that this design would create on... as a result of the fact that the  
4 50-foot setback would allow a design like this.

5

6 Chair Lauing: But not only can we, we have to because that's our purview. So, can go to  
7 Commissioner Riggs?

8

9 Commissioner Alcheck: I think you could make an argument that says that as a result of this  
10 removal of the 50-foot setback you could create a design which would create problems.

11

12 Commissioner Riggs: Ok maybe I should respond because I feel like you're talking to me and  
13 you did put words in my mouth (interrupted)

14

15 Chair Lauing: Yeah so let's have Commissioner Riggs have a (interrupted)

16

17 Commissioner Riggs: Because I am not talking about the design at all. You could... I can take  
18 away the pretty picture and I'm talking about when you change the zoning, you change the  
19 setback, you change the relationship of the pedestrian to whatever land use is there or the

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1 cyclist in whatever use is there. And it creates points of conflict and interactivity between  
2 travelers that are navigating whatever that piece... whatever that parcel is... let me finish.

3

4 Commissioner Alcheck: Hold on, I wasn't... I didn't (interrupted)

5

6 Chair Lauing: Commissioner Riggs still has the floor.

7

8 Commissioner Alcheck: But I didn't release my time.

9

10 Commissioner Riggs: He didn't release the floor, he still had the floor.

11

12 Commissioner Alcheck: I didn't release the floor, I'm not done.

13

14 Commissioner Riggs: Just finish because I (interrupted)

15

16 Commissioner Alcheck: My point is (interrupted)

17

18 Commissioner Riggs: I don't think we disagree, I don't think anybody here disagrees.

19

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1 Commissioner Alcheck: If you change the setback, they could still operate their hotel the way it  
2 is which is to suggest that the change in setback wouldn't affect anything. They could continue  
3 to operate their 34-unit hotel with 35-spaces for the next 50-years even if you change this  
4 setback. So, the change in setback does not do any of the things that you're suggesting, the  
5 design does and that is an issue that... this is why I was making the comments  
6 (unintelligible)(interrupted)

7

8 Commissioner Riggs: It's a non... Ok.

9

10 Commissioner Alcheck: Now I'm done.

11

12 Chair Lauing: Ok.

13

14 Commissioner Riggs: Thank you.

15

16 Chair Lauing: Commissioner Riggs, continue.

17

18 AMENDMENT #1

19

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1 Commissioner Riggs: Thank you. I appreciate all that, I don't... I'm not speaking to design, I'm  
2 speaking to I think the change in the setback is a triggering effect where it actually creates an  
3 inconsistency with the Context-Based Design Guidelines which actually are in the next session  
4 [note-section] or in... right in... written out in the Zoning Section 16.90 or whatever. I actually  
5 think they need to be accommodated and it could be just additional conditions on the approval  
6 of the setback that requires that the... that Staff work with the ARB and the applicant to make  
7 sure that any future projects would be consistent with the Context Sensitive Design Guidelines  
8 that exist in the zoning that require that it be a project that is not only just pedestrian  
9 accommodating. The language is pedestrian and cycling promoting and that is consistent with  
10 what you Commissioner Alcheck brought up which is the Council's intent to create a  
11 relationship between the built space and the streetscape that would drive sustainable  
12 transportation and that's all I'm suggesting. It's not the change in use, change in setback  
13 actually drives... rethinking about how you think about the transportation relationship and  
14 that's in the zoning. So, I think that you can create a consistent argument that's not inconsistent  
15 with approving looking at the Context Sensitive Design Guidelines as a part of an approval here.

16

17 [note – many Commissioners started speaking at once]

18

19 Commissioner Alcheck: I would suggest you make an amendment (interrupted)

20

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1 Chair Lauing: I would happily... I was going to say I would happily accept that amendment to the  
2 motion. So, what's stated contingent on (interrupted)

3  
4 Commissioner Alcheck: So just for clarity are you suggesting that there are changes to... I guess  
5 my question would be are you suggesting that there would be wholesale changes to the layout  
6 of the hotel in an effort to satisfy your needs or is this an enforcement issue which was my  
7 question in the first time we went through?

8  
9 Commissioner Riggs: Well I think (interrupted)

10  
11 Chair Lauing: Its more of a City issue than a project issue but we have to make sure that any  
12 kind of design is done contingent on what you just said about the design standards.

13  
14 Commissioner Waldfogel: I have a question relative to this.

15  
16 Chair Lauing: Ok sure, Commissioner Waldfogel has another question.

17  
18 Commissioner Waldfogel: This is really a question for Staff which is are the issues that  
19 Commissioner Riggs are raising, are his issues something that will be reviewed at some point in  
20 the project process? These potential interactions between different transportation modes.

- 
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Mr. Lait: So, the project will be reviewed to the applicable design guidelines that we have for El Camino. And as a part of the ordinary review process for any applications we send it to our Design Review Committee which is an inner disciplinary group of professionals with the City; including our Transportation Office, that looks at the project for any violations of the regulations and for promotion of the bicycle and pedestrian plan and other areas.

Commissioner Waldfogel: Ok so nobody has ruled on whether this conforms or violates those guidelines, is that correct?

Mr. Lait: Well I don't believe that anybody has identified any issues relative to our transportation bike/ped plan and (interrupted)

Commissioner Waldfogel: But has it been reviewed relative to that or is that something in the future?

Mr. Lait: Yes. Yeah, no that's something that's already happened internally and now we're going to go to the Architectural Review Board and I got to check in on one thing here.

Commissioner Waldfogel: Ok so can Commissioner Riggs (unintelligible)(interrupted)

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Mr. Lait: Have they already gone to the ARB?

Mr. Ah-Sing: Yes, they went to the ARB once.

Mr. Lait: And so, it's already gone to the ARB once where those issues have been studied.

Commissioner Waldfogel: So, what's the proposal relative to this?

Commissioner Riggs: I would just actually request that it be made consistent with the Context Sensitive Design Guidelines that are in the... that are listed in the zoning and they apply to CS properties. And right now, I see inconsistency in the way that the design is articulated at but the point is actually that the zoning should manifest... they should be manifest in the zoning.

Mr. Lait: Ok so I hear your comments and I think at best all that we can do is recognize that because the body that is charged with reviewing that compliance with the Context-Based Design Criteria in the code is the Architectural Review Board and that's where the authority rests.

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1 Chair Lauing: But I can accept that as an amendment... accept that amendment and if it's  
2 seconded, we can just comment on that. And we understand that's not in our purview but  
3 we're pointing it out.

4

5 Commissioner Waldfogel: (unintelligible – off mic)

6

7 Commissioner Riggs: So, I lost some kind of authority to review bicycle lanes in their consistency  
8 with transportation? I mean I... this is a grey area. I don't agree that we don't have the authority  
9 to review that.

10

11 Mr. Lait: So, nobody said that you've lost (interrupted)

12

13 Commissioner Riggs: I mean that's... you're making... you're taking transportation infrastructure  
14 and saying that's not a part of what we have purview over.

15

16 Mr. Lait: No, I'm not saying anything remotely close to that. What I am saying is that our  
17 Transportation Office has reviewed the project, they found it to be in conformance with our  
18 applicable rules and regulations.

19

20 Commissioner Riggs: And I'm saying that I don't agree that it's consistent with (interrupted)

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2 Mr. Lait: That's fine but you're not subject to... your findings are not does this project... does  
3 this elimination of the setback comply with Chapter 18.16 etc. etc. If you cannot make the  
4 findings to support the requested setback modification, you would need to focus your vote on  
5 why you think it's applicable to meet that standard. This is not a full project review where  
6 you're looking at all aspects of the project. If you can't support the setback, that's fine. You can  
7 state your reasons why you don't like... why you don't support it.

8

9 Chair Lauing: Right but let's just get back to the context... in a second, just a second. We're kind  
10 of recapping where we are. I've accepted that amendment that we tag that on there.

11

12 Mr. Lait: Can you specify exactly what amendment you're adding on?

13

14 Chair Lauing: You said... Commissioner Riggs, you said the language was what? Follow the  
15 Context Sensitive (interrupted)

16

17 Commissioner Riggs: (off mic) It doesn't matter, I withdraw that amendment. I just... you guys  
18 just (interrupted)

19

20 Chair Lauing: Well I think it's a (interrupted)

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Commissioner Riggs: Just approve the thing and I'll just (interrupted)

Chair Lauing: I think it's a good amendment. I like the amendment because it's nothing that we see "collateral damage" possibilities that we just want ARB to look at and if there are things that we should look at we will.

Mr. Lait: So, Chair, you're the maker of the motion (interrupter)

Chair Lauing: I am so I accept that.

Mr. Lait: If you want to amend your motion you (interrupted)

Chair Lauing: I did.

Mr. Lait: So, can you tell me what you're (interrupted)

Chair Lauing: I did so now I need to make sure that the seconded is going to go along with that.

Mr. Lait: Can you... but can you articulate what that is so that we can make our notes?

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Chair Lauing: That we're going to follow the Context Sensitive Designs. Is that correct language?

Commissioner Riggs: Yeah well, I would say also there are very specific design standards that put forward for El Camino that I'm not sure that I see articulated as a part of this and I think I would want too. So, I... I mean we... I could send the exact portion of the code but I don't think that's worth (interrupted)

Commissioner Waldfogel: (off mic) But is the recommendation right now... so (interrupted)

Chair Lauing: Mic, mic, mic.

Commissioner Waldfogel: I'm sorry. We're looking at the setback question and it sounds like we can make a recommendation to the ARB to take all of these into account as they look at the project but I'm not sure we can... I'm struggling over how we can... what we can do beyond making that recommendation to the ARB given where we are today. That's what I'm trying to answer.

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1 Chair Lauing: I think that's right and it's not a question of from here on who has authority over  
2 it. It's just that we want to note that should be under the spotlight, so Commissioner Alcheck  
3 wanted to ask one question of Staff?

4  
5 Commissioner Alcheck: Yeah so...Director Lait, this is different than when a commercial or  
6 project that could be very similar to this comes before the Commission for a Design and Site  
7 Review.

8  
9 Mr. Lait: Yes.

10  
11 Commissioner Alcheck: And can I ask you is there a specific reason in your mind why this  
12 project wouldn't come before the Commission for Design and Site Review?

13  
14 Mr. Lait: It doesn't meet the applicability requirements for Site and Design Review.

15  
16 Commissioner Alcheck: Ok so here's my response to that question and again this goes back to  
17 we set this up in some respects for failure because we have a design but we're not doing a Site  
18 and Design Review which we do do. And when we do Site and Design Review all the  
19 transportation components are within our purview. The problem is that this project, to be  
20 perfectly frank, hasn't risen to the level of a review by the Commission but the zoning setback is

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1 a component that needs to be addressed before any project can even get really evaluated. And  
2 my concern is that what you've really discovered is potentially a flaw in maybe the integrity of  
3 the transportation component of the review for a design that would follow a zoning change like  
4 this and I'm not really sure how to address that here. It's almost as if we would like to send  
5 Commissioner Riggs to the ARB during their review of this to make some suggestions because  
6 unfortunately, a project like this isn't rising to the level of coming before us under Site and  
7 Design Review.

8

9 Chair Lauing: Ok.

10

11 Commissioner Alcheck: So maybe the question is why isn't it coming to us under Site and  
12 Design Review, what are the standards it would have to meet, and if you feel so compelled to  
13 make that recommendation to Council. So, I would suggest that we make two  
14 recommendations if you're going to go down this path. Not one to the ARB because they don't  
15 really answer to us. I would suggest that you recommend that Council adopt this zoning  
16 ordinance if you feel... this zoning amendment on the setback if you feel that way. And I would  
17 suggest that you make a second recommendation that encourages the Council to consider what  
18 elements of a project like this would... what elements of our code need to be adjusted for a  
19 project like this to rise to a level of Site and Design Review?

20

- 
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1 Chair Lauing: Well the Site and Design Review criteria are already stated and they are not met  
2 here at all. So, I don't think the agenda tonight addresses trying to expand that, that's a whole  
3 different azenized item. But... so thanks for the suggestion but I don't think we should go there  
4 tonight. The existing motion, if that's the end of discussion, is to adopt the change in zoning of  
5 the 50-foot setback but restrict the usage of that area to... again you need to help me with the  
6 wording here... hotel and residential and mix-use. Is that appropriate to get the sense out?

7

8 Mr. Lait: So, what I'm hearing is that the map change would only apply in instances where the  
9 property is used or redeveloped for hotel or mixed-use development. Is that... did I get that  
10 right?

11

12 Chair Lauing: That's right and that we have... want the ARB to take a close look at all of the  
13 normal... I can't remember your phrase now Commissioner Riggs.

14

15 Commissioner Riggs: Well I just (interrupted)

16

17 Mr. Lait: So, my notes (interrupted)

18

- 
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1 Commissioner Riggs: I was... I would... I wasn't suggesting the ARB should do it. I think it's a part  
2 of the recommendation is just that Staff needs to bring the... that has to be... whatever's there  
3 has to be in conformity with the development standards and the Site Design Standards.

4

5 Chair Lauing: Yeah, thank you.

6

7 Commissioner Riggs: We're not talking about a project and so a condition that's put on the  
8 property irrespective should be that when we relax a setback the expectation is, we should  
9 enforce the remainder to the zoning. And for example, there is a requirement for 12-foot... in  
10 the Development Center for 12-foot sidewalks on El Camino. Those aren't 12-foot sidewalks  
11 right now and I can't measure them in the graphic. We aren't talking about the project but I  
12 mean I... those are some of the things that we could do. If we wanted to get into the details, we  
13 could but I think that I would just say the condition would be that by the condition on this  
14 approval has to be bringing the project into conformity with the built environment aspects  
15 along the street frontages.

16

17 AMENDMENT #1 SECOND

18

19 Commissioner Waldfogel: (off mic) Yeah whatever project is subsequently applied for is  
20 approved.

- 
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Commissioner Riggs: Yeah and we don't even have to say that, it's... yeah, we don't even have to say the project.

Commissioner Waldfogel: Yeah exactly.

Chair Lauing: So, does that language captured in the motion?

Commissioner Waldfogel: (off mic)

Mr. Lait: Well it's embedded in the Zoning Code.

Chair Lauing: Ok, fine.

Commissioner Riggs: But it's not going to (interrupted)

Chair Lauing: But we're... it's more of an alert because we see some potential issues here.

- 
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1 Commissioner Alcheck: It's redundant because that is our code. Our code requires uniform  
2 conformity (interrupted)

3

4 Chair Lauing: Right so we're (interrupted)

5

6 Commissioner Riggs: (off mic) The problem is the code is vague in this area.

7

8 Commissioner Alcheck: No, the problem is that they haven't had a chance to put it through the  
9 Building Department and the Permit Process yet.

10

11 Chair Lauing: No, it's not a project. We're just talking about (interrupted)

12

13 Commissioner Alcheck: That's the problem.

14

15 Chair Lauing: We're talking about (interrupted)

16

17 Mr. Lait: So, Chair lets... I think we're ready for a vote.

18

19 Chair Lauing: So, the... yeah, enough discussion on that so I'd like to take a vote now of the four  
20 of us. So, all in favor of the motion including the amendment?

- 
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Commissioner Alcheck: Do you mind... hold on. So, are we... is it incorporating that last language or not?

Chair Lauing: Yes. It's incorporating the reference to that.

Commissioner Alcheck: I'm ok with it but I just think you should have it seconded, we should have the process (interrupted)

Chair Lauing: We did, he accepted that.

Commissioner Alcheck: Oh, alright.

VOTE

Chair Lauing: So, all in favor of that please signify by raising your hand. Four and one recusals and two absences so that motion passes. Ok, thank you.

MOTION PASSED 4 (Lauing, Riggs, Alcheck, Waldfogel)- 0 – 1(Summa recused)-2 (Gardias and Monk absent)

- 
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1 Chair Lauing: We're going to take a couple minutes break, we're going to retrieve one of our  
2 Commissioners.

3

4 [The Commission took a short break]

5 **Commission Action:** Motion made by Chair Lauing to approve Staff's recommendations with  
6 the following additions: 1) Restrict applicability of the setback change to hotel or residential  
7 mixed-use development and 2) Project to comply with the context based design criteria of the  
8 Zoning Code. Motion was seconded by Commissioner Waldfogel, the motion passed 4-0  
9 (Summa recused, Gardias/Monk absent).

10

11 3. PUBLIC HEARING / QUASI-JUDICIAL. 2321 Wellesley Street [18PLN-00178]: Request  
12 for a Zoning Map Amendment to Change the Subject Property From R-1 to RMD(NP)  
13 to Construct a Two-Family Residence. Environmental Assessment: Exempt from the  
14 provisions of CEQA per Section 15303. Zoning District: R-1 (Single-Family Residential).  
15 For More Information Contact the Project Planner Samuel Gutierrez  
16 (samuel.gutierrez@cityofpaloalto.org)

17

18 Mr. Albert Yang, Senior Deputy Attorney: So, because the applicant has actually left  
19 (interrupted)

20

21 Commissioner Riggs: No, they're right there, (unintelligible).

22

23 Chair Lauing: Are you... Jonathan are opining on this?

24

25 Mr. Lait: No.

26

- 
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1 Mr. Yang: So, I think we might have eliminated that (interrupted)

2

3 Chair Lauing: Sorry?

4

5 Commissioner Waldfogel: (off mic) But we haven't changed our by-laws yet.

6

7 Chair Lauing: Yeah, we did.

8

9 Mr. Yang: We have.

10

11 [note - many Commissioners starting talking at once off mic]

12

13 Chair Lauing: Ok we're going to move onto the next item.

14

15 Mr. Lait: (off mic) Ok so there's no reconsideration.

16

17 Commissioner Waldfogel: (unintelligible – off mic)

18

19 Mr. Lait: Is that confirmed?

20

- 
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1 Mr. Yang: Oh I... there is... I'm sorry, I misspoke, there is a motion to reconsider you could make.

2

3 Chair Lauing: No.

4

5 Commissioner Waldfogel: (unintelligible – off mic)

6

7 Chair Lauing: But we've decided not to do that in our sidebar comments. So as soon as the  
8 Commissioners are seated, we're going to move onto Item Number Three. Item Number Three  
9 is a consideration a quasi-judicial of 2321 Wellesley Street Zoning Map Amendment for a  
10 property from R-1, RMD. We'll do the Staff report and then we'll go to the public comment. Oh  
11 wait, I'm sorry, I forgot your batting order here Commissioner Summa. Commissioner Summa,  
12 please speak.

13

14 Commissioner Summa: Yes, so once again this evening, I guess it's one of those kinds of nights, I  
15 have to recuse myself this time because I own property within 500-feet of the applicant's  
16 property so I'll be back.

17

18 Chair Lauing: Alright thank you and that's your last one so I won't forget next time. Ok, so Staff  
19 report?

20

- 
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1 Mr. Lait: Great so Chair I'm going to introduce Sam Gutierrez, he is been here with us for many  
2 years actually but this is his first presentation before the Planning and Transportation  
3 Commission. So, I wanted to acknowledge that and let you know that he has a brief 45-minute  
4 presentation for you.

5  
6 Mr. Samuel Gutierrez: Thank you for that introduction, it might be a little quicker than 45-  
7 minutes. So, I am the project planner for this project here located at 2321 Wellesley Street. This  
8 involves a zoning change from R-1 to RMD (NP) at a currently vacant site. Here on the beginning  
9 of the presentation the architect's sketch rendering of the proposed project but for the PTC  
10 we're going to be looking at strictly the zone change; the ARB will be looking at the design.

11  
12 Moving on here just to recap what I just said, this is a zoning change from the R-1 Zone. This  
13 parcel, in particular, is the single R-1 parcel surrounded by our PF Zone which is the adjacent  
14 parcel where the College Terrace Library is located. And the surrounding parcels that are  
15 directly adjacent to this parcel are actually zoned RMD (NP) which is the residential two-family  
16 multi-family district with the Neighborhood Preservation Combining District applied. And the  
17 NP Zone is actually why the project will need to go to ARB as well for the design.

18  
19 The map here that you can see shows this parcel in particular how it's a bit of the R-1 kind of  
20 appendage of the... the R-1 District is located directly across the street. It is the one parcel that

- 
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1 is zoned R-1 and the applicant has requested to change that to be included in the RMD (NP)  
2 Zone. As we move on, we can see that this is the existing condition, the site is vacant. There  
3 was a home previously there in the '90s but it was demolished and there was never anything  
4 rebuilt there so it's laid vacant for several years. So, this would be to develop that site with this  
5 new two-family duplex on the site with the zone change.

6

7 As we reviewed the project and the key thing to take away is that the current zoning of R-1  
8 would allow for two units but it would be achieved through a single-family home and an ADU.  
9 The ADU, of course, has some size limitations, if it's attached or detached, 600-900-square feet  
10 whereas the RMD (NP) Zone allows for this kind of duplex, two-family to be developed and  
11 there isn't a size limitation on the individual units themselves. They would just have to conform  
12 to the allowable floor area of the RMD Zone. So that's the difference between the zones at  
13 least for developing more housing units in the City. You still have two new housing units that  
14 could be developed but the RMD Zone allows for more flexibility on the type of units that could  
15 be developed as far as their square footage. And the other thing is because the surrounding  
16 zone is RMD (NP) it would not be considered spot zoning. We would just be taking away that  
17 little appendage of the R-1 Zoning and making it whole with the surrounding RMD Zone.

18

19 Moving here this table is just for reference and it's included in your Staff report is a bit of the  
20 difference between the two zones. There are some development standard differences beyond

- 
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1 the distribution of square footage between the additional dwelling unit. The floor area is  
2 increased in the RMD Zone versus the R-1. The parking requirement also is more strict in the  
3 RMD Zone because they require three parking spaces, two of which must be covered. Where in  
4 the R-1 Zone you only have to park... especially if you develop with an ADU you only have to  
5 park the main home whereas the ADU doesn't require any parking at all on site. The RMD Zone  
6 does also because it does have that requirement for a second covered space, it does allow the  
7 FAR to be exceeded by 200-square feet to accommodate that second covered space since it is  
8 required in the code, wherein the R-1 Zone that isn't a requirement. There's also some other  
9 changes like in coverage requirements and things of that nature but the majority of the changes  
10 are very similar to the R-1 Zone. I mean they're not dramatically different.

11

12 So, the project is subject to go to Council after the... after you review and make a  
13 recommendation on it and next week it will go before the ARB for the design of it because of  
14 the Neighborhood Preservation District. It did go to Council previously for pre-screening. They  
15 reviewed it and didn't come up with too many issues on the proposed zone change. And the  
16 Staff recommendation for this project is that the Planning Commission find that the project is  
17 exempt from CEQA under Section 15303 and that you recommend approval of the proposed  
18 ordinance to... excuse me, the ordinance change for the zone change to Council. And that  
19 completes the presentation.

20

- 
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1 Chair Lauing: Ok, great. We have two speakers on Item Number Three, Jack Culpeper and  
2 followed by Glen Jarvis unless you want to do it in a different order.

3

4 Mr. Gutierrez: Well they're the property owner and the architect.

5

6 Chair Lauing: Yeah, ok, whatever... however, you want to do it that's fine. It looks like we still  
7 don't have our main mic working so yeah, just sit there and gather around that table mic. Again,  
8 as their getting settled we're not looking at housing design here, just the whether or not its ok  
9 to make the zoning change. The pictures on Page 45 are great but they are not something we're  
10 opining on so carry on.

11

12 Mr. Jack Culpeper: Good evening Commissioners and Chair Lauing, thank you for hearing me.  
13 My name is Jack Culpeper and I grew up in College Terrance. I have kind of this once in a  
14 lifetime opportunity to build a house and move back and so that's why we're here today.

15

16 As Sam mentioned we went before the City Council for an informational hearing and they  
17 recommended that we move forward to design and then come before you and so that's where  
18 we are. We're looking to do a really... awe, we're looking to do a really high-quality design and  
19 so with that, I'd like to introduce Architect Glen Jarvis to make a few remarks about the project.

20

- 
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1 Mr. Glen Jarvis: Yes, thank you for hearing us. Yes, we had a very positive response at City  
2 Council and we agree with the Staff report. We are hoping that you agree with our application.  
3 The... this... as I look at this property, I don't understand why it isn't RMD. It's a remnant on that  
4 block and it just seems to be logical to be the same as the other properties and the changes  
5 between the zones are really quite minor. But I think it's beneficial for the neighborhood and  
6 the... we get a better second unit with the additional FAR. And we... there are further  
7 restrictions as far as parking and a more thorough design review but one of the things that we  
8 really like is the daylight plane is a 15... starts at 15-feet instead of 10 and that allows us to have  
9 a more traditional building; a two-story wall. It gives us a better chance to get a building that  
10 really fits into the historic part of the neighborhood. It allows us to have a basement with  
11 where the floor is... the main floor is up 3-feet but we can get windows into a basement  
12 apartment. But also having the two-story wall it allows us then to have a large roof plane that's  
13 facing south and that is enough area so we can get solar panels and it allows us to do a net zero  
14 energy design which is rather important. It's very hard... it's harder to do that in the R-1 Zone  
15 where you have a number of dormers; as there is a description of that and there's an  
16 illustration of that in the R-1 Zoning that shows that type of a building. But... oh, the other thing  
17 that I want to say is that we... the design that we have is designed for the RMD and without any  
18 variances. It meets those requirements.

19

20 Chair Lauing: Ok thank you.

- 
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Mr. Jarvis: We're open for questions.

Chair Lauing: There may not be any so we'll see. So, this is a quasi-judicial, are there any disclosures? No, ok. So, we'll just bring it back to the Commission now. Commissioner Alcheck's light is on.

MOTION

Commissioner Alcheck: Ok I'll... I won't be as bold as I was on the last one but I would suggest that I would support a motion recommending that Council adopt the Staff recommendation.

Chair Lauing: Is there a second to that?

SECOND

Commissioner Riggs: I'll second it.

Chair Lauing: For discussion? Ok.

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1 Commissioner Alcheck: I guess I was making a motion.

2

3 Chair Lauing: Continue, that's correct.

4

5 Commissioner Alcheck: You know it's funny, it's a very timely request that we very infrequently  
6 have an applicant come before us and ask us to provide them with a zoning designation which  
7 would allow them to had additional housing and be subject to a zoning code that would require  
8 more parking. So, I feel like that would be music to the ears of the Council Members.

9

10 Is it... are the... just for clarity are the sites to the... I guess I want to say to the right but that's  
11 not really the most professional way to describe it. On the side that is not the library, is that a  
12 multi-family unit?

13

14 Mr. Gutierrez: Yeah, it's a multi-family building next to it directly adjacent. So, if you're looking  
15 at the parcel directly straight on, the library is to the left and you're correct, to the right its  
16 multi-family.

17

18 Commissioner Alcheck: So that what... I didn't drive by the site but I did look at it from a  
19 number of Google street images and that's sort of what I got. I just wanted to make sure that I  
20 saw it the say that I saw it.

- 
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I think one of the components that's sort of particularly relevant here is I think when you have a project that sort of sandwiched between two taller... two projects that are in zoning... that are within a zoning framework that allows for a taller scale like those multi-families are. I think it's dangerous to not consider the suggested request because I think that the... yes, it's a phenomenal idea to incorporate light into a basement and that makes it so much more pleasant, I agree with you. I also think that if you require this site to be developed under that R-1 height daylight plane you're dwarfing a home between larger elements that could... that may exist now in one way but could evolve in a different way if they get redeveloped. And my concern is not so much just whether there's congruence there now but what will it be when that project next door, which is a multi-family, gets redeveloped and how will that impact that this? So, I think that's a consideration that should be part... I think that should be a part of the this... I guess I wouldn't call it the argument but the analysis is that that's the framework there.

I don't have much more to say. I think the analysis in the Staff report was very adequate and sufficient and my recommended approval motion is in your hands.

Chair Lauing: Commissioner Riggs you were the second.

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1 Commissioner Riggs: Yeah thanks. Commissioner Waldfogel I know your light was on but I just  
2 want to speak to my second. And I... my second is really I'll be bold and say my... a lot of my  
3 colleagues at Berkley talk about Rock Ridge being one of those places where they're subtly  
4 densifying and how Rock Ridge is actually has a lot more density because they have backyard  
5 units and ADUs. And they have multi-family units that are happening on R-1 properties and I  
6 think that this is actually a really good example of scaled density. I just want to... I would... I  
7 second this and I want to support this type of Context Sensitive project. So that's... thank you  
8 for bringing this forward and thanks for hearing your thoughtfulness in terms of the adjacencies  
9 with your property.

10

11 Chair Lauing: Commissioner Waldfogel.

12

13 Commissioner Waldfogel: Thanks. I also support this but I do have one question for the  
14 applicant which is there's a letter on Packet Pages 42 and 43 which I believe it from the  
15 applicant? It's not signed. Can you... does that... there's no... it's 3C... no, wait, yeah Section 3C.  
16 Can you help find (interrupted)

17

18 Mr. Yang: That's the applicant request letter.

19

20 Mr. Culpeper: Yeah, that's from me, that's a (unintelligible)(interrupted)

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Commissioner Waldfogel: Yeah and I just wonder if you could clarify, you say you intend to build a single family, two-story traditional craftsmen shingle style home which is great within an affordable apartment in the basement. And I just wonder what you mean by affordable.

Mr. Culpeper: So, I learned that that word doesn't mean what I thought it means. I think it would just be lower rent because of the location.

Commissioner Waldfogel: So, would it be fair to say what you meant to say was a market rate apartment in the basement?

Mr. Culpeper: Yes, I think so.

Commissioner Waldfogel: Ok can we... do you want to... ok.

Mr. Culpeper: It would be affordable by virtue of (interrupted)

Commissioner Waldfogel: But it's... well, there's no such thing as that but its market-rate apartment is what you meant.

- 
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1 Mr. Culpeper: Yes.

2

3 Commissioner Waldfogel: Ok I just wanted that clarification.

4

5 VOTE

6

7 Chair Lauing: Ok first I just want to say I thought it was a really good Staff report and I liked your  
8 table. It was very clear and very thorough. Good going, you did a great job on your first  
9 presentation to PTC so you're welcome back.

10

11 Just I think this is a terrific project. I mean it's we're going from no units there to two units  
12 which we get to add to our housing inventory. And clearly, you're being very sensitive to the  
13 neighborhood and very committed to the project... committed to the design of the project and  
14 having it fit into the character of the neighborhood. So, from... I think it's a terrific project and  
15 we should go forward with it. If there aren't any other comments we can vote? Ok. All in favor  
16 of the motion raise your hand. No opposed, one recusal, two absent. Motion passes, thanks  
17 very much.

18

19 MOTION PASSED 4 (Lauing, Alcheck, Waldfogel, Riggs)- 0 -1(Summa recused) -2 (Gardias and  
20 Monk absent).

- 
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Mr. Culpeper: Thank you.

Chair Lauing: Good luck.

Mr. Culpeper: Thanks for your comments.

Chair Lauing: Good luck.

Commissioner Riggs: Yeah thanks, Jack.

[The Commission took a short break]

**Commission Action:** Motion to approve Staff’s recommendation made by Commissioner Alcheck, seconded by Commissioner Riggs. Motion passed 4-0 (Summa recused, Gardias/Monk absent).

- 4. PUBLIC HEARING. PTC Consideration of an Ordinance Amending Section 18.42.110 (Wireless Communication Facilities) of Chapter 18.42 (Standards for Special Uses) of Title 18 (Zoning) of the Palo Alto Municipal Code (PAMC) to Update the Code to Reflect Recently Adopted FCC Regulations. CEQA: This Ordinance is Exempt from Environmental Review Under CEQA Guidelines Sections 15061(b)(3) and 15305.

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1 Chair Lauing: Ok let's reconvene. So, Item Number Four is a PTC consideration of an ordinance  
2 relative to wireless communication facilities and I think Albert is going to do the presentation  
3 from Staff.

4

5 Mr. Albert Yang, Senior Deputy Attorney: So, I have a couple short introductory remarks and  
6 then we'll just be available for your questions. I also have with me Laura Holtan [note – spelling]  
7 who is the City Attorney's Office's Legal Fellow who helped in preparing this item and I'll turn it  
8 to her if I get stumped.

9

10 So, the ordinance before you is a proposed update to the City's Wireless Code for wireless  
11 communications facilities. It is prompted by recent regulations adopted by the FCC. The FCC  
12 regulations made a number of changes but the ones that are relative to this ordinance are the  
13 creation of a new category of wireless facilities called Small Wireless Facilities. And these are  
14 wireless radios and antenna that fit within certain size criteria and if you... if the application  
15 meets those criteria then it is entitled to a shorter review period from the City. The other  
16 change in the FCC regulations that is reflected in the ordinance is a requirement that aesthetic  
17 review be based on objective standards. And so, what the ordinance anticipates the City's  
18 adoption of such objective standards.

19

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1 The FCC regulations made a number of additional changes that are controversial and are the  
2 subject of on-going litigation but for the most part, those changes are not part of the City's  
3 ordinance. For example, if the FCC regulations limit the fees that the City is able to charge for  
4 an attachment to the utility poles and street lights. That's not something that is dealt with in  
5 the City's Wireless Code, that is a part of the Utilities Department's rates and fee schedule. And  
6 I know we received correspondence from the public express concern about specific applications  
7 that were before the City. And again, as has been the case in the other two items for tonight  
8 the Commission tonight is dealing with the City's code and not with any particular wireless  
9 application.

10

11 Finally, I also would like to note that although the FCC regulations are being litigated by a  
12 number of Cities right now. Unless or until a court either stays the effect of those regulations or  
13 finds that they are invalid the City is bound by federal law to follow those. And with that, I'm  
14 available for your questions.

15

16 Chair Lauing: I'd just like, as the Chair, to ask just a couple clarifying questions from you guys.

17 So, you're saying that all of the changes here you're saying are required by federal law and  
18 there's no additions being made by Palo Alto?

19

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1 Mr. Yang: That's correct. The changes in the ordinance are first to define... to adopt the FCC  
2 definition of this small wireless facility category and then adopt the FCC's rules for the amount  
3 of time that the City has to review those applications. And then the other change is to  
4 anticipate that the Planning Director will adopt objective aesthetic standards as required by the  
5 FCC order.

6  
7 Chair Lauing: Ok and then the second question that I wanted to ask, particularly in light of it  
8 proceeding to discussions I guess, not anticipated but is it's ARB that has the responsibility for  
9 the aesthetic standards you referred too?

10  
11 Mr. Yang: Yes, so the City has 6-months to develop and adopt those standards and we  
12 anticipate that we will take draft standards to the ARB.

13  
14 Chair Lauing: Take what?

15  
16 Mr. Yang: Draft standards to the ARB before they're adopted.

17  
18 Chair Lauing: Ok and then the last thing I don't know if you can comment on but there's a  
19 number of the general thing here. There's a lot of question that people will ask is that there're

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1 various references to the fact that these laws limit the City's ability to do things or limit local  
2 discretion. So, I guess my question is what's the reverse set of that, that's not limited?

3

4 Mr. Yang: I'm not sure that there's much that's (interrupted)

5

6 Chair Lauing: That's why I'm asking that question.

7

8 Mr. Yang: That's not limited. This is an area that's very heavily regulated not only by federal law  
9 but also by state law and the trend in the past several decades as are reliance on wireless  
10 technology has increased has been for federal law to take away more and more local discretion  
11 on how infrastructure is deployed.

12

13 Chair Lauing: Ok. We have one public comment.

14

15 Commissioner Riggs: I just had a question first.

16

17 Chair Lauing: Oh, oh, sure, go ahead.

18

19 Commissioner Riggs: I have just one question too is that we got a lot of correspondence about a  
20 May 21<sup>st</sup> or 22nd Item the Planning Commission heard and I just wanted to clarify that we've

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1 not... we didn't make any decision on this in May is that correct or any decision about cellular  
2 facilities because I don't remember doing that?

3

4 Mr. Yang: That's correct. The City Council approved a set of applications in May of 2017 and  
5 before those were presented to the Council, they had gone to the ARB but those were never  
6 before the Planning Commission.

7

8 Commissioner Riggs: Thank you, that's all I needed to know.

9

10 Chair Lauing: Ok there's one public... member of the public, Bill Ross, to speak to this item.

11

12 Mr. Bill Ross: Should I sit there?

13

14 Chair Lauing: Yeah because that's the only audio we have.

15

16 Mr. Ross: My name is Bill Ross, I'm appearing as a ratepayer and a taxpayer and the document  
17 present authority. I'm going to disagree with Mr. Yang, I think you need a more complete  
18 analysis to even make a recommendation here. There is litigation and besides the litigation  
19 which is presently in the 10th circuit and I would note it was initiated by one of the very  
20 providers that's communicated with Verizon about this FCC regulation. But I'd also suggest

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1 there's a second area of recent regulation that needs to be considered and evaluated before  
2 you can make a recommendation to City Council. And that's the rulemaking of the California  
3 Public Utilities Commission with respect to Wildfire Mitigation Plans. It deals with the  
4 implementation of what's known as SB-901 as set force in the document. That's the post-  
5 Napa/Sonoma effort by the legislature to address problems associated with utility poles and it  
6 doesn't limit them to high fire hazard areas to mitigate the potential for future wildfires in the  
7 future. Now you might say well why should we be concerned about a rulemaking proceeding  
8 before the PUC that's applicable to PG&E. Several City utility workers in just observation will  
9 indicate there are PG&E utility poles within the City, there are several joint poles especially in  
10 the area south of 280, irrespective of that. The provisions for the Public Utilities Code are  
11 meant to ensure the public health safety and welfare. So, let's go back and first look at the  
12 litigation, I think it's instructive. Among the entities that are involved are the Charter Cities of  
13 Bakersfield, Los Angeles, and several counties in California. The League of California Counties,  
14 the League of Local Governments for Morgan, the League of Local Governments from  
15 Washington, the City of New York, the City of Seattle, the City of Portland are all challenging  
16 this regulation. It's multi-district litigation, there's currently a motion to transfer it from the  
17 10th circuit which is Denver to the 9<sup>th</sup> circuit. The petitions and this won't be resolved for a  
18 while but the petitions do raise the issues that weren't completely analyzed by Staff that I think  
19 respectfully you need some type of analysis on. Specifically, and I bolded this on the second  
20 page, it's supposed prohibition of local regulation, the limitation of these in the extent of

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1 aesthetic review. Among the group that's central in this litigation are the San Jose Petitioners as  
2 they are classified in the litigation and that's set forth in Exhibit B. I'd quite pragmatically and  
3 respectfully ask you don't have a lot of difference between development patterns here in Palo  
4 Alto and especially with the recent specific plans authorized in San Jose about the generation of  
5 office space, the accommodation of jobs, and interest on regulation of poles. I'd ask for some  
6 more time to finish this off because I think it deals with an issue that needs to be more  
7 completely developed. That is the way this ordinance is presented and quite respectfully I'm  
8 going to say it's an administrative mechanical way. I think you need to have a further analysis  
9 before you make a recommendation of approval to the City Council. I would remind everyone  
10 here that assuming that you all are ratepayers for the City of Palo Alto, every month you make a  
11 despot for undergrounding public utilities. The proceeding before the Public Utilities  
12 Commission I think is best amplified by a comment made by the City Laguna Beach to  
13 implement an amendment to a specific provision of the Public Utilities Code which is to  
14 eliminate utility poles, alright? You eliminate them, put them below ground.

15

16 Chair Lauing: You need to wrap up.

17

18 Mr. Ross: The way the ordinance is structured now... I can wrap up. Before the... the way the  
19 ordinance is phrased now there's no prohibition if this regulation is set aside for taking down

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1 something that's authorized. There's no provision for accommodating a finding by the PUC that  
2 says above-ground utility poles have to be removed.

3

4 Chair Lauing: Ok thank you.

5

6 Mr. Ross: Finally, the CEQA analysis is based on CEQA Guidelines Section 15.06.1 that can be  
7 said that with certainty there's no effect on the environment. I would respectfully suggest  
8 exactly the opposite conclusion should be found and there should be another basis for analysis  
9 under CEQA. You have (interrupted)

10

11 Chair Lauing: Ok you've substantially exceeded your time.

12

13 Mr. Ross: I will finish. Fine, you have two issues that bear completely to show that there will be  
14 an impact or a possible impact on the physical environment. So, I would encourage you to get  
15 further analysis in both areas prior to making a recommendation to the City Council. Thank you.

16

17 Chair Lauing: This comes to the Commissioners now for comments or questions. Commissioner  
18 Alcheck.

19

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1 Commissioner Alcheck: So quickly what is the effect of the discussion that you had with  
2 Commissioner Lauing at the beginning of this item? Is the suggestion that there's a component  
3 of this that is within our purview? I mean I'm... if our hands are tied... are you suggesting that  
4 our hands are tied in that the discussion is redundant? I have other questions, I just want to  
5 start with the most important one.

6  
7 Mr. Yang: So, I think that this... the Commission can have... can make a recommendation for the  
8 City Council to inform their policy discussion on whether to adopt changes to our code that  
9 conform with federal law. I... you know I understand there are several jurisdictions that  
10 challenged this regulation but I don't think that's an indication that in the interim any of those  
11 jurisdictions will be ignoring its effect. But I guess it's a policy... it's a potential policy discussion  
12 for the Council to have about whether they are interested in adopting these sorts so changes  
13 even though they are at the moment mandated... will be mandated by federal law in mid-  
14 January.

15  
16 Commissioner Alcheck: Well, in that case, I will suggest... well, let me ask a few more questions.  
17 Has... in your... to your knowledge has the City's Attorney's Office evaluated the idea of joining  
18 this?

19  
20 Mr. Yang: I don't believe we have... we haven't received that direction.

- 
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Commissioner Alcheck: So, would the direction for considering joining a suit like this one be initiated by Council or the General Manager of the City?

Mr. Yang: I have to be honest I don't know the answer to that question off the top of my head.

Commissioner Alcheck: I... it's... I don't think a particularly good use of our time to evaluate the merits of this legal memo and its evidence. But I will suggest that based off of the direction that you're giving us tonight about the purview and responsibility we have in terms of complying with this federal regulation. I would suggest two things, I would suggest number one that we adopt... I'm not making a motion. I'm suggesting that we adopt the recommendation that Staff has brought forward here and I would suggest that if Commissioners are concerned or share concerns on this item there could be a second recommendation that the Council enlists the aid of what we would call in the legal industry an opinion letter. Request an opinion letter on the topic of whether or not this lawsuit really has merit and if it does have merit, if there is a substantial likelihood let's say we... I would encourage... the exact recommendation would be that the Council seeks legal opinion of a reputable state or national law firm to provide a legal opinion on the merits of this case. Because if this case were to prevail then I think the question of whether or not we need to adopt these ordinance adjustments comes into question. I would suggest to you that the most important question everyone should always ask when they're

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1 making a tough decision, their first question should always be when do I need to make this  
2 decision? My take away from the conversation that you had with Chair Lauing is that we need  
3 to make this decision now in order to comply which I'm fine doing. I'm fine making a  
4 recommendation that supports the Staff recommendation. I would suggest that our Council  
5 gets informed by a reputable legal analysis and then make the conclusion on whether their  
6 decision needs to happen now or can wait till the conclusion of this legal process. And there's a  
7 sort of subsequent issue there, is there a path where they could adopt these changes subject to  
8 their survival of this lawsuit? That's very nuanced and very vague but essentially can they create  
9 an ordinance that would sunset if this didn't... it would be odd if they... other municipalities  
10 succeeded... this is the first I'm seeing this report, we didn't get it in advance. I would  
11 encourage next time (interrupted)

12

13 Mr. Ross: My fault.

14

15 Commissioner Alcheck: Well you can email us but (interrupted)

16

17 Mr. Ross: Commissioner if I may a point of order.

18

19 Chair Lauing: No, you're out of order, I'm sorry.

20

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1 Mr. Ross: [unintelligible – off mic]

2

3 Chair Lauing: I'm sorry (interrupted)

4

5 Commissioner Alcheck: I get it.

6

7 Chair Lauing: You're out of order.

8

9 Commissioner Alcheck: I get it, I'm (interrupted)

10

11 Mr. Ross: [unintelligible – off mic]

12

13 Commissioner Alcheck: I'm only acknowledging it, I'm only seeing it now and because of the

14 (interrupted)

15

16 Mr. Ross: [unintelligible – off mic]

17

18 Commissioner Alcheck: Right I'm only acknowledging that it's very difficult for a Commissioner

19 to read such a dense document on the dais. And so, the point that I'm trying to make is that if

20 there's a path that Council could... if this lawsuit were to prevail and somehow some of these

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1 components of the changes wouldn't be necessitated by the FCC or the federal government's  
2 dominance over our local statutes if you will. Then we would be making a change that may not  
3 have been necessitated in which case the review would be different. I'd want to understand  
4 more of the components of the need that theoretically at that point it would be an applicant as  
5 opposed to the government.

6  
7 So again, I'll summarize, I'm comfortable supporting a motion that adopts the Staff's  
8 recommendation and I would also encourage us to include a second recommendation that  
9 encourages Council to consider obtaining a legal opinion as to the merits of the lawsuit and to  
10 potentially consider in their adoption of the... in whatever policy decision they make whether or  
11 not they have more time to make this decision.

12  
13 Chair Lauing: Other Commissioners, lights. Commissioner Waldfogel.

14  
15 Commissioner Waldfogel: No one else wants to jump in? A couple questions relative to this and  
16 I agree with Commissioner Alcheck's comments but I'm assuming that we'd amend the  
17 ordinance if the lawsuit prevails, that you'd be back. Is that a correct assumption?

18  
19 Mr. Yang: Yes, that's correct and I guess along those lines we also considered having a provision  
20 that would automatically sunset the ordinance in the event that the lawsuit... something

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1 happened in the lawsuit but as it's impossible to forecast whether the regulation will be struck  
2 down in whole or in part or which parts would be (interrupted)

3

4 Commissioner Waldfogel: And in lieu time if we do nothing then we lose our discretion on any  
5 aesthetic review, is that correct?

6

7 Mr. Yang: I think we enter into a... if we don't adopt these changes, we have to enter into a less  
8 clear framework for items that might fall into this small wireless facility category.

9

10 Commissioner Waldfogel: So, let me be slightly responsive to some points that Mr. Ross raised  
11 and one is what happens when we underground utilities district? Let's say a facility has been  
12 approved on a pole that's holding aerial service today and we underground a district and  
13 hypothetically we want to remove that pole. What... do we have any discretion under this?

14

15 Mr. Yang: Yes, so for our existing utility poles the City has license agreements with wireless  
16 carriers before they can place their equipment on those poles. And under those license  
17 agreements if the City ends up undergrounding those utilities then the wireless equipment  
18 much be removed as well.

19

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1 Commissioner Waldfogel: Ok so that's part of the license agreement. Next question is what  
2 design discretion do we have because a wireless network can be designed in many ways with  
3 equipment placed in many different places? Especially with these small wireless facilities,  
4 there's almost infinity many ways to design the network. So, when an applicant says I want to  
5 put a facility over there and over there and over there do we have any discretion to say why  
6 have you chosen those sites versus these other sites so we provide equivalent coverage?

7

8 Mr. Yang: So, the City's purview in reviewing a wireless application is generally the aesthetic  
9 and similar impacts that the application has on its proposed location. As we're undergoing that  
10 review, we do ask the applicants to provide us with an analysis of alternative locations and  
11 configurations that they considered. We do not at this time and I'm not sure to what extent  
12 we'd be able to ask for a review a wireless network design... the design of the network itself.

13

14 Commissioner Waldfogel: I was just looking for the language. There's some language in here  
15 about engineered design which I'm trying to... applicator shall hire a radio engineered licensed  
16 by the... oh, that's just for RF emissions I guess, not for coverage.

17

18 Yeah if there were a way to do this if there were a way for the City to get better informed about  
19 design alternatives. So, we could have informed discussions about this that would be good but I  
20 don't know exactly how to incorporate that into this piece of work.

- 
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So now two final questions for you, Packet Page 57 defines wireless communication services and I think this is a carryover for an existing definition. But I wonder whether this definition is overly broad because it... for example, it includes unlicensed wireless services. That is certainly outside the scope of a 4G, 5G mobile network. Same thing, I mean several of these categories are outside of this scope. I don't know how exactly how the federal government has defined the categories but these seem broader than they may need to be. Do you have any comment on that?

Mr. Yang: I believe that these definitions are generally carried over from federal regulation but I will confirm that.

Commissioner Waldfoegel: Ok and then also to that point look at Packet Page 55, the new definition of Small Wireless Facility which you define purely in terms of the physical size of the equipment. Is there... is it possible to define this more narrowly around 4G, 5G license spectrum services?

Mr. Yang: No this is directly from the federal regulation so regardless of the technology if it is a wireless facility that fits within these dimensions it is entitled to (interrupted)

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1 Commissioner Waldfogel: Well let me give you a hypothetical, let's say that I was doing  
2 intelligent... I wanted to do an intelligent transportation infrastructure overlay and I wanted to  
3 build V to X infrastructure around the City. Would I then get this kind of entitlement to put  
4 radios anywhere I want to for V to X?

5

6 Mr. Yang: So, I don't understand many of those words but I think the answer may be  
7 (interrupted)

8

9 Commissioner Waldfogel: Well I can explain them. I can speak to them more slowly if that helps  
10 but I mean vehicle to infrastructure is and Commissioner Riggs may have some knowledge  
11 about this but there's a whole new wave of radio communication between moving cars and  
12 infrastructure. For example, communicating the status of traffic lights or telemetering where  
13 vehicles are. So that is... some of that is in licensed spectrum, some of that is in unlicensed  
14 spectrum, but would that be a by right? I mean if I was a brand-new startup X, I could come to  
15 the City and I would have a three week is it or two weeks shot clock to install my V to X  
16 infrastructure? No other review, no other conversation about applicability, is that a true  
17 statement?

18

19 Mr. Yang: I'm sorry, I can't speak to that but I guess one thing to clarify is that we are talking  
20 about 60- or 90-day review periods.

- 
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1

2 Commissioner Riggs: (unintelligible - off mic)

3

4 Commissioner Waldfogel: Well a couple places are but (interrupted)

5

6 Commissioner Riggs: So, I think (interrupted)

7

8 Commissioner Waldfogel: Michigan dot is.

9

10 Commissioner Riggs: You're probably... I mean this is... you've brought up another area where  
11 we're probably going to see federal exemption of preemption happen just to try to set some... I  
12 mean this is another telecommunication area that just waits, we're going to see federal  
13 preemption on the V to V and V to I.

14

15 Commissioner Waldfogel: (unintelligible – off mic)

16

17 Commissioner Riggs: But it's going to be specified more.

18

19 Commissioner Waldfogel: Right but this seems to grant it so if you're doing start up X that you  
20 could get this pole attached right presumptively.

- 
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Commissioner Riggs: So, I don't think it grants all the frequencies that are needed to  
(interrupted)

Commissioner Waldfogel: This doesn't talk about above frequency.

Commissioner Riggs: It's a blanket exemption, right?

Commissioner Waldfogel: Yeah.

Commissioner Riggs: They're blanket granting.

Commissioner Waldfogel: Yeah this doesn't talk about... and it doesn't talk about... the  
definition is licensed or unlicensed. And it's any... I mean if you look at the FCC Wireless Bureau,  
those are all services within the Wireless Bureau.

Commissioner Riggs: Well I would say that I have the same questions and I don't know that...  
it's a little bit beyond my expertise too. We're not dialoguing V to I and V to X implications right  
now because many of the companies that are innovating this space aren't even tapping into the  
technology.

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Commissioner Waldfogel: What about IOT overlays? I mean its just the question is this seems to me that there are 30 things I could think of that I could come an apply under this definition which may or may not... which are different from 5G mobile service. And I'm a little uncomfortable that they are all captured in this definition so I just wonder if there's a way for us to be more specific?

Mr. Yang: Ok well so that's something that we can look into and I think it may be helpful for us to have a conversation offline so I can learn more about what you're asking about.

Commissioner Waldfogel: Maybe Commissioner Riggs can help that conversation as well.

Mr. Yang: Sure.

Chair Lauing: Commissioner Summa.

Commissioner Summa: Thank you so I have to admit to being a little puzzled by the Staff report. I understand this is federal regulation but the Staff report had so little in it. In particular with regards to what the member of the public brought up. I mean this is not... on Page 51 Staff says several municipalities have brought legal challenges. This is not several municipalities, this

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1 is the City of Los Angeles, City of Monterey, City of Portland, City of Las Vegas, City of Bellevue,  
2 WA. I mean this is... San Jose, Bakersfield. I mean this is a long list of big sophisticated Cities so  
3 I'm wondering how... did anyone approach Staff from the League of California Cities to see if we  
4 wanted to be a part of this and was Council consulted? I'm just kind of curious how this all went  
5 down and furthermore do these Cities... I'm assuming these Cities while this is being litigated  
6 still have to comply with federal regulations, right?

7

8 Mr. Yang: So, I can answer your second question which is yes. On the first question, I don't  
9 know.

10

11 Commissioner Summa: So, would these... I mean can you speculate as to whether these many,  
12 many Cities that are part of this litigation also adopted as part of their code the federal  
13 regulations?

14

15 Mr. Yang: I can't... I don't know the answer to that question.

16

17 Commissioner Summa: Yeah because I'm wondering if that... if adopting the federal regulations  
18 would prevent us from being part of this action if the City Council and... wanted too and I don't  
19 know that any City Council Member knows this was going on. I certainly would have  
20 appreciated a broader discussion of this information in our Staff report because I feel like we

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1 could be throwing the baby out with the bathwater here. And I'm not sure what the advantage  
2 of adopting the regulations as part of our code is if we are skeptical of their value to our  
3 community given that we have to follow them anyway. So why don't... what's the advantage of  
4 adopting them in our code?

5

6 Mr. Yang: So, the advantage of adopting them in the code is that when... after January 14<sup>th</sup>,  
7 2019, we receive an application for something that would qualify as a Small Wireless Facility.  
8 We can follow our code as opposed to having to deviate from what is in our code. In addition,  
9 this is... I guess it helps to provide public transparency of what the time frames are the City  
10 must follow for some of these applications.

11

12 Commissioner Summa: So, I guess I'm still... I mean there's a lot of concern... I'm certainly not  
13 an expert on any of these issues but these... there's a lot of concern in the community about  
14 this and I think we have a fairly informed, sophisticated community. And I don't... from what I  
15 understood from some of the answers to Chair Lauing's questions we're just adopting what the  
16 federal regulations are. We don't have any leeway at this point to customize them other... I  
17 think then the aesthetic review which we're going to work on. I can't really in my mind  
18 formulate an advantage to adopting the federal regulations that we probably would prefer to  
19 have more leeway on them, we don't. I just... I can't see what the advantage is. I can see what  
20 the advantage of continuing this to another night for this body so we have a chance to look

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1 further into some of the issues brought up by the member of the public. I mean for one thing, I  
2 would have called my really good friend who's on the Bellevue City Council and asked her what  
3 they thought about this. I could have... how they handle it and how they're handling it? I really...  
4 had I known all of this I really could have done a lot better preparation for this meeting. I just... I  
5 didn't know any of this from a Staff report so I'm not suggesting we should ever violate a  
6 federal regulation but some of these federal regulations recently get thrown out very quickly in  
7 courts and I'm thinking of immigration regulations that have been. So, I mean I think it's  
8 premature to adopt them into our code and I think it's a good idea to work on the aesthetic  
9 aspect that we have some purview over now with the ARB. But I just sort of still don't even  
10 though you've answered the question I still sort of don't understand the advantage for Palo  
11 Alto to putting it into our code. Thanks.

12  
13 Chair Lauing: So, I have a couple questions and comments but I'll maybe try to tie into what  
14 Commissioner Summa said. So, what would be the practice as of whatever that date is, January  
15 1<sup>st</sup> of '19, of Palo Alto if we didn't actually change the regulations? Would you be essentially  
16 monitoring the applicants according to those regulations anyway?

17  
18 Mr. Yang: That's correct.

19

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1 Chair Lauing: Ok and then the other thing is what is the... I guess the legal word is... maybe it's  
2 not quite correct but remedy? I mean what... by not doing it what's our problem, that we could  
3 be sued by the federal government?

4  
5 Mr. Yang: So, if we fail just to act within that shorter amount of time then a wireless carrier  
6 could sue to have a court declare that their applications where should be deemed approved  
7 and basically cut short any City review.

8  
9 Chair Lauing: And what was the last sentence?

10  
11 Mr. Yang: Cut short any City review.

12  
13 Chair Lauing: Ok but you already said that you would be going by federal regulations even if  
14 they weren't on our books.

15  
16 Mr. Yang: That's right.

17  
18 Chair Lauing: So presumably they wouldn't have anything to complain about, the carrier?

19  
20 Mr. Yang: Yes, that's right.

- 
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1

2 Mr. Lait: And it creates a little bit of an administrative challenge for us because we've got  
3 members of the public who are of course very engaged in this. And we want to operate... we  
4 want to be clear about the rules in which we have to process these applications. And so, if  
5 we're acting on a project in compliance with the FCC order but that is inconsistent with our  
6 Zoning Code. I mean that... regardless of where people individually are relative to what the  
7 standard is, that just creates a little bit of tension in our local process and uncertainty and a lack  
8 of transparency where people aren't understanding why we're making a certain decision as to  
9 one application that's not consistent with our code.

10

11 Mr. Yang: I think I tried to speak to this early about the interest in transparency. If we are going  
12 to be applying a short review period to certain applications, I think we want our code to reflect  
13 that so that the public understands that's what happening and why.

14

15 Chair Lauing: Yeah, what happens in practice and what happens on paper sometimes are two  
16 different things. I want to come back to that but a couple questions. One is that there's  
17 discussion here about being able to recover fees and we can probably guess that what it costs  
18 to do this in Palo Alto might be less than what it costs to do in a rural area. Do we have enough  
19 discretion or local control to actually be able to enforce that vice versa the federal government  
20 that we can get fees to cover this?

- 
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1

2 Mr. Yang: So, we have always and we will continue to recover all of our costs when it comes to  
3 application processing. The one area that has changed under this new regulation is that the  
4 annual league's fees that we charge are limited but that actually has a greater impact in  
5 communities... other communities than it does in Palo Alto because Palo Alto is already subject  
6 to state law that adopts very similar limitations on what we can charge. So that's an item that's  
7 controversial among local governments generally but practically in Palo Alto, it doesn't have the  
8 biggest effect.

9

10 Chair Lauing: Ok another question that relates to this lack of local control on Packet Page 48  
11 right at the beginning under background. You said it's expected that carriers are going to  
12 continue to roll our new facilities. The growing need for increased capacity and speed and then  
13 later in the document I think it's Packet Page 49 you say the City could not stop a carrier from  
14 closing a significant gap in its own coverage. For a wild west, out of control carrier, I mean if  
15 they say I need 16 stations across the street here or across the neighborhood, what do we get  
16 to see to make sure that they really have a gap? I mean what... do we just have to let them put  
17 up things anywhere in your interpretation?

18

19 Mr. Yang: So, we ask applicants to provide coverage maps and, in some cases, we can also have  
20 our own consultant, a third party, verify the quality of service at these locations. That's an issue

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1 that goes into Staff's processing of these applications. It's not something that reflected in the  
2 ordinance at all.

3

4 Chair Lauing: Ok but that is an area that you're telling us that we have some control?

5

6 Mr. Yang: So that's actually an area that changed under the federal regulations but it's not  
7 something that is... has any bearing on the ordinance before you.

8

9 Chair Lauing: Ok and do you anticipate this because the nature of the beast that you're going to  
10 have increased in applications so you're going to have to Staff up for it?

11

12 Mr. Yang: We're already facing and have been for several years quite a lot of applications.

13

14 Chair Lauing: Ok other comments? I think Commissioner Alcheck was up first.

15

16 Commissioner Alcheck: So, you know look I think there are items in the... there are elements to  
17 this that suggested changes that I have confidence in our review capability. I have very little to  
18 no confidence that we have both the skill or the budget to figure out whether the lawsuit is  
19 worthy of Council consideration. So, I really feel strongly that if we have a concern that it might  
20 be, we recommend that Council seek not just the advice of their City counsel but also

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1 encourage their City counsel to obtain a second opinion which I refer to an opinion letter on the  
2 item. I don't believe that there is any benefit to us delaying this item in an effort to better  
3 understand the significance or quality of the lawsuit filed. I wouldn't trust a conversation with a  
4 local City Council Member from Bellevue. I wouldn't trust anybody who didn't have a law  
5 degree and specific expertise in this very specific area of the intersection of land use and  
6 communication. And I think that a legal opinion like the one I'm suggesting to get isn't going to  
7 be cheap. I think that when you ask top rate attorneys to do this sort of analysis, they take their  
8 time and it costs money. And so, I would just like to respond to the suggestion that we delay in  
9 an effort to gain more knowledge on the lawsuit as one that I would not support.

10

11 Chair Lauing: Ok Commissioner Summa is the only other one with a light on.

12

13 Commissioner Summa: I have another question about how many... I mean in 5-years are things  
14 going to be popping up like mushrooms? Do we know how many we're going to have in 5-years  
15 or any timeframe? I mean it just seems... it seems like... I don't mean to repeat myself but it  
16 seems like we don't... to follow the federal regulations we don't need to put it into our code.  
17 And it seems like there's a lot of moving parts to this that we... and a lot that we don't know  
18 including how many of these we could wind up within the City. Do we have any analysis of that  
19 sort of thing?

20

- 
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1 Mr. Yang: I think we currently have approximately 100 pending applications and (interrupted)

2

3 Mr. Lait: (off mic) Maybe we should clarify nodes as opposed to (interrupted)

4

5 Mr. Yang: Yeah.

6

7 Mr. Lait: (off mic) There's a few applications (unintelligible)(interrupted)

8

9 Mr. Yang: Yeah sorry, a handful of applications that cover approximately 100 different utility  
10 pole locations and we have been informed that the carriers who have approached the City have  
11 plans beyond those applications.

12

13 Commissioner Summa: I'm sorry I didn't hear that.

14

15 Mr. Yang: The carriers that have approached the City do have plans beyond the applications  
16 that we currently have on file.

17

18 Chair Lauing: Commissioner Riggs.

19

- 
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1 Commissioner Riggs: Thank you. I want to bring up one point that I think is getting lost and then  
2 I want to make a suggestion. I think the focus on what we do with overhead transmission lines  
3 is actually something that warrants more discussion and it's something that we're not  
4 prioritizing in our funding plans. I think we've dialogued this, it came up over the summer when  
5 we... when there was an item on how we could accelerate what ratepayers are contributing to  
6 overhead line undergrounding. I do think this is a linked discussion and I just want to make sure  
7 that we acknowledge that. And maybe that could be something that we put forward as an  
8 additional consideration for Council and maybe something that Council might consider  
9 prioritizing because I think it's very linked to this but also linked to the wildfire risks, we're  
10 seeing with increased adaptation risks.

11

12 So, this suggestion I'll make for moving forward because I think that we're getting a little stuck  
13 and rehashing some of the same issues is I would... maybe I... Commissioner Alcheck you've  
14 been really eloquent on this issue. Could you fashion... and with the consent of the rest of the  
15 counsel [**note- Commission**] could you maybe rearticulate your prior statement as a motion and  
16 feel free to include something about consideration of transmission lines if you think it's  
17 appropriate? I think its actually a little bit of a peripheral issue to this but would you be willing  
18 to just give us a motion of what you suggested to start us off? I don't think there... I think we  
19 have some general consensus around that and I'd be willing to second that motion.

20

- 
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1 Chair Lauing: Commissioner Alcheck.

2

3 MOTION

4

5 Commissioner Alcheck: Ok I'll repeat the suggestion I made earlier in the form of the motion. I  
6 would recommend that or I move that the Planning Commission recommend the City Council  
7 adopt the attached ordinance, Attachment A of Item Number 4. I'm not going to speak to that  
8 second item since it's... I can't speak to it as clearly as you can but if you want to amend it, I will  
9 allow it... I mean I'll accept it. And that would be the conclusion of that recommendation and I  
10 would so move that the Planning Commission encourage City Council to... it doesn't sound like  
11 they've instructed the City... hold on, let me caveat this. I'm operating from the assumption that  
12 they haven't already asked our City attorneys to look into this item and it wasn't clear to me  
13 whether or not that discussion is going to take place. So, operating from that assumption I  
14 would move that the Planning Commission recommend that the City Council consider the  
15 sustentative legal issues that are apart of the lawsuit taking place.

16

17 Chair Lauing: That can be the same motion.

18

19 Commissioner Riggs: Yeah and I'll second that as one motion.

20

- 
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1 Commissioner Alcheck: Well I don't want to make it the same motion but we can... only  
2 because I... it's not that they are separate, it's just that their sort of bullet points. And consider  
3 obtaining legal opinion in the manner so that they can operate with all the knowledge that I  
4 think would be necessary to make this decision.

5

6 Chair Lauing: Is that good for you Commissioner Riggs?

7

8 Commissioner Riggs: Yeah and I would suggest that we make it... to me that feels better as a  
9 packaged recommendation given, I think the concerns. So, I would second it as one motion  
10 (interrupted)

11

12 Commissioner Alcheck: That's fine.

13

14 SECOND

15

16 Commissioner Riggs: And I think that we can... my recommendation is that despite the... to  
17 leave the fire risk out of this. Although I do think it will be captured in the minutes and I think  
18 it's something that the Council needs to consider going forward given how... given the statues...  
19 slow motion our undergrounding program has been so second.

20

- 
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1 Chair Lauing: Yeah, I'd like to just comment on that... oh sorry. Your light wasn't on so I didn't  
2 (interrupted)

3

4 Commissioner Waldfogel: I'll turn my light on.

5

6 Chair Lauing: Alright, no, that's why I didn't... I was just going to comment that it seems like we  
7 almost have no choice at this point. It's a legal matter and we're relying on City Council... I'm  
8 sorry, City attorney advice on this and the only other option that I can see other than this is to  
9 tell Council we considered it. And if they think its black and white and we're... our hands are  
10 tied as the question was then they can make that call but at this point, I would support that  
11 motion. Commissioner Waldfogel.

12

13 FRIENDLY AMENDMENT #1

14

15 Commissioner Waldfogel: Yeah, I would support this motion. I would like to request a... I'll see if  
16 this is a friendly amendment which is also to have Staff review the service and facility  
17 definitions to ensure that these are as narrow as they can be within the scope of federal law.

18

19 Commissioner Riggs: I'll accept that.

20

- 
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1 Commissioner Alcheck: Sure, I mean that would be the recommendation that Council includes  
2 that, sure, I'll accept it.

3

4 Chair Lauing: Ok that amendment (interrupted)

5

6 Commissioner Alcheck: I just want to clarify that it's not that... it's not so much that I think our  
7 hands are tied with the second component of the suggestion. I think that even if a legal analysis  
8 was done the decision on whether to join that lawsuit or not adopt this item is really a Council  
9 decision. It wouldn't (interrupted)

10

11 Chair Lauing: Clearly.

12

13 Commissioner Alcheck: Right. It's not... even if we had the information, I'm not even sure we  
14 would be the appropriate body to recommend what... it's a risk.

15

16 VOTE

17

18 Chair Lauing: Totally agree, the sense of the motion is that we think that someone should be  
19 looking at the legal arguments up to the point of maybe even being a party to the lawsuits if  
20 that's deemed appropriate but that's not in our purview. Ok so the motion was made,

- 
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1 seconded, amendment was made, seconded and it's all combined now. Any other discussion? I  
2 see no other lights. So, we'll vote on the combined motion, in favor of the motion with the  
3 accepted amendment please raise your hand. Four and opposed? Commissioner Summa. Ok 4-  
4 1, two absences, thank you.

5

6 MOTION PASSED 4 (Alcheck, Lauing, Riggs, Waldfoegel) – 1(Summa) – 2 (Gardias and Monk  
7 absent)

8

9 Commissioner Summa: May I speak to my no vote?

10

11 Chair Lauing: Absolutely, speak to your no vote.

12

13 Commissioner Summa: So, I really appreciate that our legal counsel brought this to us as sort of  
14 a just a ministerial item but I just... I don't feel... I just don't feel confident that we need to add  
15 it to the code. And I was pretty sure it would pass so I just wanted to make a clear comment  
16 with regards to that so thank you very much.

17

18 **Commission Action:** Motion to approve Staff's recommendation by Commissioner Alcheck with  
19 the following changes: 1) PTC encourages the City Council to consider the substantive legal  
20 issues that are part of the lawsuit taking place, and consider obtaining legal opinion and 2) Staff  
21 to review the service a facility definition to see if these are as narrow as they can be. Seconded  
22 by Commissioner Riggs. Motion passed 4-1 (Summa against, Gardias/Monk absent).

- 
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1 **Approval of Minutes**

2 Public Comment is Permitted. Five (5) minutes per speaker.<sup>1,3</sup>

3 5. November 14, 2018 Draft Planning and Transportation Commission Meeting Minutes

4 Chair Lauing: Ok so the next item is Item Five, approval of minutes of November 4<sup>th</sup>, 2018. Can I  
5 have a motion to accept?

6

7 Commissioner Riggs: I would like a... it would... we need to... Commission or Ms. Gitelman is  
8 still listed on all the minutes. You might just want to address that.

9

10 Commissioner Alcheck: That's (interrupted)

11

12 Mr. Jonathan Lait, Assistant Director of Planning: (unintelligible – off mic)

13

14 Commissioner Riggs: Oh, is it a long goodbye?

15

16 Chair Lauing: That's very nice of her to freelance and write those minutes.

17

18 Commissioner Riggs: Yeah so, it's just something that I've been noticing time and time again so  
19 I would just maybe like to make that correction going forward.

20

21 Chair Lauing: Excellent.

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Commissioner Waldfogel: Can that go backwards too?

Commissioner Riggs: It should.

VOTE

Chair Lauing: Excellent amendment. Ok, all in favor please say aye? Ok, that's approved, thank you.

MOTION PASSED 5 (Waldfogel, Summa, Alcheck, Lauing, Riggs) -0-2 (Gardias and Monk absent)

Chair Lauing: Than we want to shift over too. Pardon me?

Mr. Lait: (off mic) Who was the first and seconder on this?

MOTION

Commissioner Riggs: I don't think there was a second but I'll be (interrupted)

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1 Chair Lauing: Riggs firsted it, amended it and seconded it.

2

3 SECOND

4

5 Commissioner Summa: I'll second it.

6

7 Mr. Lait: So, Riggs, Summa, we have a (unintelligible).

8

9 Commissioner Riggs: Great.

10

11 Chair Lauing: Great. Ok, so that is that item.

12

13 **Commission Action:** Motion to approve meeting minutes made by Commissioner Riggs,  
14 seconded by Commissioner Summa. Motion passed 5-0 (Gardias/Monk absent)

## 15 **Committee Items**

16 Chair Lauing: Now we are onto any Committee items which I don't think there are any standing

17 Ad Hoc Committees.

## 18 **Commissioner Questions, Comments or Announcements**

19 Chair Lauing: Questions, comments, and announcements and then we'll get to future agenda  
20 items. Commissioner Alcheck.

- 
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Commissioner Alcheck: I had a short, not informal dialog with Director Lait about this. There is an event happening on May 10<sup>th</sup> next year, it's called Housing the Bay. I attended last year and I encouraged some of you to attend last year as well. I can say without question that this was the most informative event I attended in I think half a decade with respect to the work that we do and so on May 10<sup>th</sup> it's called Housing the Bay. Last year, for example, there was a panel with the Director of Planning for San Jose, the Director of Planning for Oakland, and the General Manager of San Francisco on the issues that they are facing in terms of addressing the housing crisis. There was a Planning Commissioner from San Diego who led a discussion on a... I would describe it as Santa Row like mixed-use project that helped them address housing and affordability. And so, it's totally in the wheelhouse of things and if you've got time on May 10<sup>th</sup>, it's a full day. It starts at 8, it ends at 6 pm and there's very likely going to be Planning Commissioners from a lot of municipalities as well as non-for-profit developers and City Staff present and speaking. So, I hope... there's two components to this, I'm urging all of you to attend. Also, there's a... for the Staff, there's a group rate. We can get a very reduced group rate. I assume that this is within the budget of our conference attendance thing that we have.

Mr. Jonathan Lait, Assistant Director of Planning: Yeah, yeah, we just need to (interrupted)

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1 Commissioner Alcheck: So, I'd love for us to... that early bird group rate will expire soon so I'm  
2 hopeful that if there's any of you interested please let Jonathan know. I'm going to let him  
3 know, I'm interested, and maybe we can attend as a group and pay less.

4

5 Commissioner Summa: It's in Berkley?

6

7 Commissioner Alcheck: It's in San Francisco at the Hyatt Regency.

8

9 Commissioner Riggs: Well not more than three of us and (interrupted)

10

11 Commissioner Alcheck: No, I... if its... actually, if it coordinated more than three of us  
12 (interrupted)

13

14 Commissioner Riggs: And I know but I do think that I wanted to make sure that we emphasize  
15 that we have these training... we do have training funding available so people don't feel like  
16 price needs to be an obstacle. I can't go, I'm going to be in Munich but I... yeah, eating  
17 marzipan... no.

18

19 Chair Lauing: I think we'll go to your conference.

20

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1 Commissioner Riggs: Yeah no, I'm a student.

2

3 Chair Lauing: Ok Commissioner Waldfogel.

4

5 Commissioner Waldfogel: Yeah just a request I think it would be helpful if at some point in the  
6 next few months we could get a briefing on the MCT-CAZA initiative and its connection with SB-  
7 50. I mean I know that this is... this is all up in the air right now but these are topics that I think  
8 the public needs to become better informed about and this may be a good setting to present  
9 some material on that.

10

11 Chair Lauing: Is your light still on?

12

13 Commissioner Riggs: Yeah.

14

15 Chair Lauing: Did you have comments?

16

17 Commissioner Riggs: Yeah, I wanted to say (interrupted)

18

19 Chair Lauing: Sure, go ahead.

20

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1 Commissioner Riggs: This is for Staff, Jonathan you may have received the email from the Cally  
2 PA today about the... there's a new housing browser tool that shows basically the housing  
3 needs across the state. It's really good for benchmarking so I just wanted to make sure maybe  
4 we could share that email and that tool. I got it, I can send it to you if you didn't get it but it's  
5 actually a really nice comparative tool that shows how all of the municipalities... I think it's  
6 called the Housing Open Data Tool... and how communities across the state are benchmarking  
7 against one another in terms of meeting the regional housing needs.

8

9 Mr. Lait: Ok yeah, I'm going to take a look here and see.

10

11 Commissioner Alcheck: If the numbers make you sad for our City consider it even sadder  
12 because they count remodeled permits as new housing units. So not all the new numbers  
13 present actual new units.

14

15 Mr. Lait: Yeah so Commissioner Riggs maybe you can send that, I don't see it in my email.

16

17 Commissioner Riggs: I'll send it, it's really... I wasn't... I was prepared to be skeptical and I  
18 thought it was a pretty interesting tool.

19

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1 Chair Lauing: Ok anything on Ventura, Commissioner Summa? Ok. Alright, then let's shift to the

2 (interrupted)

3

4 Commissioner Alcheck: I have one more comment.

5

6 Chair Lauing: Oh, sorry, go ahead.

7

8 Commissioner Alcheck: So, I wasn't... I thought that there would be one other person at this

9 meeting today considering it's his last. Did he make... did he let you know that he wasn't

10 coming?

11

12 Chair Lauing: Yeah, he did, yeah, he did.

13

14 Commissioner Alcheck: Ok well (interrupted)

15

16 Chair Lauing: Yeah, I was going to mention that at the end too but go ahead.

17

18 Commissioner Alcheck: I was going to say in his absence that it was a pleasure serving with

19 Commissioner Gardias and I'm sorry that I couldn't have sort of (interrupted)

20

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1 Chair Lauing: Yeah, he had a work conflict kind of at the last minute.

2

3 Commissioner Alcheck: I'm sorry that I couldn't see him off tonight.

4

5 Chair Lauing: Yeah, we all are. A great colleague and we had the cake already but we'll find a  
6 time to catch up with him. Ok so looking at the meeting agenda, which you now have in front of  
7 you, noted as 1/30 is our next meeting. We will then be joined by our new... two new  
8 colleagues and also per our revised bylaws, they are now going to have the franchise they will  
9 have the vote for Officers in contrast to the past. So, the bylaws say that we can vote at the first  
10 meeting or thereafter to a date certain. I don't particularly see any reason not to do it on  
11 January 30<sup>th</sup> but I just want to put that to the group and if that's ok then we'll just put that on  
12 the agenda.

13

14 And then the second thing, two parts, one the Council retreat is the first week Jonathan of  
15 February?

16

17 Mr. Lait: I'm sorry the first what?

18

19 Chair Lauing: Council retreat, first week in February.

20

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1 Mr. Lait: Oh well it's not been set, I think they are exploring different dates.

2

3 Chair Lauing: But in that timeframe, I believe you said.

4

5 Mr. Lait: Yeah late January or early February.

6

7 Chair Lauing: Yeah so relative to our retreat it is optimal to do it after the Council retreat  
8 although we did not do that last year because we kind of felt we knew what many of the high  
9 priorities are. So, by next meeting I think we're going to want to set a date for a retreat so if you  
10 want to... can we coordinate that through Yolanda and send some suggestions as to when  
11 you're available. And the... last year we did it in an afternoon on a weekday, there was a  
12 request I think it was at the last meeting to it this year in the morning. Can everybody make  
13 mornings? I'm just trying to narrow it down a little bit. Yeah, Commissioner Alcheck?

14

15 Commissioner Alcheck: Yeah, my one suggestion here would be that this be... this discussion be  
16 led by the next Chair. I think that... I think this... I think that decision should sort of... that  
17 discussion should be led by the next Chair. That would be my comment. I don't really want to  
18 suggest something now and then everybody... it's like a redundant conversation.

19

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1 Chair Lauing: I'm just asking this because we have experience at the last retreat and just to see  
2 if the daytime or the mornings and some of the people have changed. There will be two more  
3 at the next meeting.

4  
5 Commissioner Alcheck: Right so that's another reason, we can't even begin to discuss our  
6 scheduling needs because two of the people that are participating in that aren't here. I'm just  
7 suggesting that we probably table this item till next year and when we have a full Commission,  
8 we can better ascertain our scheduling needs. That's all, it seems like a better opportunity.

9  
10 Chair Lauing: Ok any other Commissioners have comments on that?

11  
12 Commissioner Summa: I'm happy to do it now or later, I don't think it's that big of a deal really.

13  
14 Chair Lauing: I'm not trying to finalize anything now, I was just trying to get a sense of if we  
15 wanted it mornings or afternoons. Ok, that's all I have, anybody else have announcements or  
16 comments? Alright, we are adjourned, thank you.

17 **Adjournment**

18 8:50 pm

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# Palo Alto Planning & Transportation Commission

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Chair Ed Lauing  
Commissioner Michael Alcheck  
Commissioner Asher Waldfogel  
Commissioner Przemek Gardias  
Vice Chair Susan Monk  
Commissioner William Riggs  
Commissioner Doria Summa

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