



# Planning & Transportation Commission Action Agenda: April 10, 2019

Council Chambers  
250 Hamilton Avenue  
6:00 PM

## Call to Order / Roll Call

6:07pm

Chair Riggs: Alright I'll call us to order, it's 6:07 pm. Welcome to the April 10<sup>th</sup> meeting of the Planning and Transportation Commission with the City of Palo Alto. Can we do a roll call?

## Oral Communications

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

Chair Riggs: Alright so oral communications, I believe we have one speaker Ms. Gardner so 3- minutes Ms. Gardner.

Ms. Liz Gardner: Thank you. I'm Liz, I live at 2500 El Camino Real, and tonight I just wanted to speak on the mechanical lifts, parking lifts. I just wanted to support that it's not a solution to limited space parking flexibilities. Especially not for residential parking, they break down frequently. Our company, Klaus, its located in Walnut Creek, it's a 2-hour minimum ride to get to the property to fix the lift. If you want to order parts they come from overseas and it accommodates limited autos. That's no motorcycles, utility vehicles, any vans, there's no ADA handicapped parking. It's not recommended for families with children, especially infants and

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1 toddlers and/or for busy working families. Ours breaks frequently and my son was late one  
2 evening for a school presentation. He was very upset, we had to take a Lyft. The second time it  
3 broke he was late for school and there was no excused tardy for a broken lift. So, I just really  
4 wanted to make sure that mechanical lifts are not especially used for residential parking in the  
5 City of Palo Alto. I think if you had an on-site attendant 24/7 that would be a different story but  
6 again, our property was not going to reimburse us for those two Lyft rides he was late.

7

8 Two different... and the other important fact is if one... if it breaks other people cannot get in  
9 and out of the lift. So that means that people can get... are vulnerable to getting dinged at  
10 work, fired, especially for low-income properties where people are really already struggling and  
11 trying to hand onto the jobs, they have so that's about it. Any questions? I'm an expert with the  
12 lifts.

13

14 Chair Riggs: Thank you, Ms. Gardner.

### 15 **Agenda Changes, Additions, and Deletions**

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

17

18 Chair Riggs: Alright so see we'll go to agenda changes and deletions. We do have one  
19 announcement; we're going to postpone Item Number Two to a future date. For context, we on  
20 the Commission had a February retreat and we talked about all the different ways that... we  
21 were interested in seeing innovation and creative solutions in Palo Alto. And particularly with

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1 regard to transportation as a first priority and housing implementation as a second priority. We  
2 had a couple of members of the public show up for that and it was a very productive meeting.

3  
4 And one of the things that we came up with was that could have co-education sessions where  
5 we actually allow people to come and educate us and the public about innovations in the  
6 sector. This was supposed to be one of the first times we've done that. We had scheduled to  
7 have Mr. Evan Golden come in who's basically spent his entire career charting transportation  
8 innovation and has some interesting ideas about parking inventory management. And due to a  
9 [unintelligible] in the Packet, we're going to need to reschedule that and so I know we had a  
10 couple of people here for that. Apologizes for that and also to the Council Members and the  
11 Mayor who are interested and eager to have these creative and idea-driven dialogs.

12  
13 So maybe I'll ask that we not editorialize as a Commission and not try to figure out what went  
14 wrong but just to perform better next time and make sure that we can have this kind of  
15 creative dialog in the future.

16  
17 Any other suggested additions, deletions, anything from Staff?

18  
19 [the Commission moved to Action Item Number 3]

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1 **City Official Reports**

2 1. Assistant Directors Report, Meeting Schedule and Assignments

3  
4 **Study Session**

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

6  
7 2. Study Session: Parking Innovation; Discussion of Ideas and new Technologies to Allow  
8 Changes in Parking Usage, Allocation, and Management (There is no report  
9 associated with this item)

10  
11 **Commission Action:** Commission did not conduct Study Session due to a noticing issue (See  
12 Agenda Changes, Additions and Deletions)

13  
14 **Action Items**

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

17  
18 3. PUBLIC HEARING. 1210 Newell Road [18PLN-00289]: Request for Hearing on the  
19 Director's Tentative Decision to Deny a Variance Request to Allow for an Exception  
20 From the Standard Corner Lot Fence Height Regulations for an Unpermitted Fence of  
21 Approximately: 7' 5" Front Yard (Where 6' is Allowed), 8' Rear Yard (Where 7' is  
22 Allowed), 7' 5" Interior Yard (Where 7' is Allowed), and 7' 5" Street Yard with No  
23 Sight Triangle Reduction at The Newell Road/Community Lane Intersection (Where  
24 Approximately 4' is Allowed and a Sight Triangle Limits Fences to 3' Tall).  
25 Environmental Assessment: The Proposed Project is Exempt From the Provisions of  
26 the California\ Environmental Quality Act (CEQA) in Accordance with Guideline  
27 Section 15303 (New Construction or Conversion of Small Structures). Zoning District:  
28 R-1 (Single-Family). For More Information, Contact Project Planner, Samuel Gutierrez  
29 at Samuel.Gutierrez@cityofpaloalto.org

30  
31 Chair Riggs: Ok was that... with that said we have a study session or sorry we have a public  
32 hearing on 1210 Newell Road. A request for hearing on the Director's tentative decision to deny  
33 a Variance Request to allow for an Exception from the standard corner lot fence with the height  
34 regulations for an unpermitted fence of a approximately 7-foot 5-inches in the front where 6-

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1 foot is allowed, 8-foot in the rear where 7-foot is allowed, 7-foot 5-inches in the interior yard  
2 where 7-foot is allowed and 7-foot 5-inches on the street yard with no sight triangle reduction  
3 at the Newell Road and Community Lane intersection. This project is exempted from CEQA and  
4 I will let Staff take it away from there.

5

6 Mr. Jonathan Lait, Director of Planning: Great, thanks Chair, we're... Samuel Gutierrez will make  
7 the presentation this evening and we're also joined by Jodie Gerhardt who is the Planning  
8 Manager for the Current Planning Program. Sam?

9

10 Mr. Samuel Gutierrez: Thank you. Gooding evening to the Commission Members here. Here,  
11 let's just jump into the presentation, we'll start with... this is just the straight elevation view of  
12 the existing site and the existing conditions as is. Just to give you a brief overview of the project  
13 here this was initially started as a Code Enforcement case last summer. We did an investigation  
14 and a notice of violation was sent out. There was some discussion with the property owner  
15 about options and what to do to correct the issues and the property owner chose to with a  
16 Variance which was submitted in August. After discussions and viewing the Variance application  
17 we sent out a tentative denial January of this year and the property owner did make a timely  
18 request for a hearing so here we are. And also, just to keep in mind this is a single-family  
19 residential zone and the house that is currently on site is newly constructed.

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1 So just to go over a bit of the Variance, remember the purpose of Variance here is to give some  
2 flexibility to the property owner that has some specific constraints for a number of reasons. It  
3 could be the site size; it could be possibly trees or some watercourse. That is unique to that  
4 property and applying zoning or other sections of the code would be difficult. There it would  
5 actually hinder them more than similar properties in the area.

6

7 And of course, a Variance does require Findings. All Findings must be met and if we don't meet  
8 one of the Findings then a Variance cannot be approved. There are a number of Findings, I  
9 summarized them here in the three bullet points. Again, special circumstances of the property  
10 could hinder that property from enjoying the privileges that properties in the same district can  
11 enjoy. Also, we want to be sure that we aren't granting a Variance that now makes that  
12 property have special privileges far beyond what other properties enjoy. And then, of course,  
13 the granting a Variance wouldn't be detrimental to public safety, health, welfare, and  
14 convenience so those are a summary of the required Findings.

15

16 Here's photos of the... again the existing conditions from all angles. You can see again the street  
17 view front side of the home, the second picture in the upper right you can see the Newell Road  
18 Street-facing side, you can see the fence that's existing, and then a zoomed in photo of that  
19 same fence on the lower fence. And then the lower right is the backyard fence that runs along  
20 Community Lane which is the alley behind this property. Here's a map of the vicinity, you can

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1 see the property there indicated with the little pin drop, and our public tennis courts that are  
2 across from Rinconada Library. And there you can see here that a number of properties actually  
3 back up to the tennis courts as well not just this one property. And you can also see Community  
4 Lane how it cuts through the rear portion of these properties.

5

6 Just to give you a brief overview of the zoning. This is a standard R-1 zone so a 6,000-square  
7 foot lot is the minimum. This property is over that, over 9,000-square feet so it is a large  
8 property in consideration of the R-1 Zone. As we move on here, we can compare the what is  
9 permitted per the fence code versus what's existing. The fences are over all of the required  
10 fence sizes and this would be the illustration of what would be permitted on site. This is a  
11 standards corner lot fence regulation diagram. And you can see here with the red outline that's  
12 superimposed on this image that's the footprint roughly of the house and where the larger  
13 fences would normally go and where the smaller fences should be which currently are occupied  
14 by the larger existing fence. And also, there a depiction of the sight triangle on the top portion  
15 of this image which applies to corners and intersections. Of course, this property has  
16 Community Lane running along the rear so that changes this image a little bit where we have to  
17 have a sight triangle here as well. This is that corner intersection that I was referring to earlier  
18 where Community Lane and Newell Road. The existing fence is over 7-feet tall and it goes right  
19 to the public right of way, the sidewalk, and the Community Lane that runs along the rear and  
20 you can see here how tall it is. This is a break down of Community Lane as it intersects the

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1 sideway and Newell Road and where the sight triangle should be. And here you can see from  
2 the pedestrian perspective the... if you're standing here on this right image, this would be your  
3 approach towards Community Lane and the tennis court facility. You don't really have a large  
4 line of sight at all whereas if you stand on the other side you have more line of sight. As you can  
5 see this fence we do have at our public facility is offset, pulled back, so it does grant a bit more  
6 view. This is a requirement in the code because we do want to have this sight triangle to avoid  
7 collision points and allow pedestrians, cyclists, or anyone driving enough time to react as  
8 another car is coming. So that is depicted here in these images, you can on the Vehicle A and  
9 Vehicle B this sight line is the sight line triangle. And that would be the point where it would  
10 allow these two moving vehicles to have a reaction point. They can see a car approaching, they  
11 know to slow down, and this is also further depicted in these triangles here. This one's for a  
12 driveway, this one is for an intersection, and furthermore here in this lower right photo you can  
13 see that if the sight triangle is offset further back then these two moving vehicles would have  
14 greater time to see one another and react. Where if the sight triangle doesn't exist, you're  
15 almost at the collision point already and that's what this image here essentially shows is the  
16 existing condition. You have vehicles there; you have bicyclists and you have pedestrians so as  
17 they're heading towards the tennis court facilities on Newell you have this conflict point here.  
18 And that is a requirement in the Fence Code to have these reductions in fence heights in this  
19 area so that it allows this sight triangle to exist and then you have a minimized collision point.

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1 So, the key consideration is that we couldn't make Findings in the affirmative for all of the  
2 requirement Variance Findings for this fence as is. There was no modification to it so it was  
3 difficult to make a Finding that it... the property is unique and is somehow restricted. The other  
4 Finding is the Safety Finding that's required and convenience to public health and safety  
5 because there is no sight triangle and you can actually not request a Variance for the sight  
6 triangle. The code specifically says that you cannot pass for a Variance from that so that was  
7 another problem with the Variance Findings, we couldn't make that Finding as well because of  
8 that.

9  
10 So, as we move forward, we... oh, I'm sorry, we also did present some options to the property  
11 owner. There are the options of putting the code compliant fences and if they have a concern  
12 about privacy there's also hedges that you could put behind the code compliance fences that  
13 now would create a privacy screen. There's also the potential for the sight triangle to be  
14 somehow changed in the sense that their fence would be cut down but pushed back and they  
15 could plant hedges along there and still maintain a privacy screen. There was a lot of concern  
16 about privacy towards their rear yard and we said if you bring down the fence for the sight  
17 triangle, I don't have that anymore but that's not quite true. You have still the ability to have  
18 hedges planted at the higher point than the code compliant fence as long as it's outside of the  
19 sight triangle. So, these options were discussed with the property owner as well.

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1 So, we do recommend that the Planning and Transportation Commission take the following  
2 action. Recommend that the Council deny the Variance request based on the project's inability  
3 to meet the required Findings and that ends the presentation. The applicant has prepared a  
4 presentation as well.

5

6 Mr. Derek Longstaff: Good evening, my name is Derek Longstaff, I'm an attorney at practice  
7 here in Palo Alto. Thank you for taking the time to hear from me on behalf of my clients Chu  
8 Ching-Yao and Cindy Zhang who's here with me. I'd also like to if it's ok have Ms. Zhang make a  
9 very brief statement at the end of my statements here.

10

11 First and for most I have to say the principle problem here is a matter of legal interpretation  
12 and it goes to Municipal Code Sections 16.24.040. Unfortunately, I have no idea if the City  
13 Attorney has reviewed our interpretation of this code section. I have no knowledge as to  
14 whether or not the City Attorney has advised this body of our arguments. The code upon which  
15 Planning relies exclusively on specifically states that a vision corner, this vision triangle which  
16 was basically the entire presentation, is required in a case where a street is improved for  
17 vehicular traffic. Community Lane does allow cars to go down it, however, in reading the code  
18 in context, it is not a street improved for vehicular traffic. And the definition upon which the  
19 City relies states, "A street is anything that includes courts, places, squares, curbs, or other  
20 public ways." That is taken from 1.04.050, again it would be more useful for this body had

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1 Planning rendered – offered to have the City Attorney render a legal opinion. The definition of  
2 street upon which the applicant relies states, “at a street is a highway, thoroughfare, parkway,  
3 road or avenue,” and it specifically states, “It does not include an alleyway or driveway.”  
4 Planning has told us that Community Lane is considered an alleyway. If an alley is not a street  
5 under Palo Alto Municipal Code Section 21.04.30 then this code section does not apply.

6

7 Secondly, this condition of a 6-foot high fence or higher at the corner of a street, an actual  
8 street not their version of a street but an actual street, and a lane, an alleyway, exists all over  
9 the City. There are numerous homes and I will try and show you just a few by scrolling through  
10 this thing with bad vision. Let’s see... where... how do we get this thing to move? Yeah, there we  
11 go. First of all, I want to point out this is the condition of Community Lane and Newell Road at  
12 the time that my clients bought the property. There was a 6-foot high fence on that corner at  
13 that time. This is 1008 Bryant and I actually have a better picture there that I’d like to pass to  
14 you. These are measurements of fences along streets. That post that the gentlemen is holding  
15 as a marker at 6-feet and 7-feet and this is all laid out in our PowerPoint deck and I believe you  
16 all have a hard copy of. This is, let’s see, look at... these are all homes in similar conditions with  
17 similar fencing all around them and at... I apologize I cannot find the one that we’re looking for.  
18 There it is. 1160 Ramona Street is actually 1160 Bryant Street, I have a correction page for this.  
19 That is the corner of what is identified as I believe 69 Lane. I’m going to pass around if I can  
20 hard copies, I printed out of Google street views of these fences so you can get a better

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1 orientation of that street Bryant. It's actually Kingsley and this 69 East Lane. It's a little lane,  
2 these are lanes that will only accommodate one car in one direction at a time and by their  
3 definition, by the City's definition, it's an alley.

4

5 The last point that I want to make here before my client has a chance to speak with you aside  
6 from the fact that this condition exists all over the City and I can't get this to go backward.  
7 There we go. These are the crime reports for the immediate area. They live near Highway 101  
8 and Embarcadero. We all know where the Rinconada Library is and those tennis courts and  
9 that's our next slide. These are all the public facilities around this property so aside from the  
10 fact that this is a back to back lot because Community Lane is not a street. As side from the fact  
11 that Planning has mis-interrupted the City's Code and therefore does not apply. This property is  
12 entitled to an accommodation, a Variance because unlike many properties in the City it is  
13 surrounded by all of these public facilities. You see in the pictures that it backs right into the  
14 tennis court. It is right across, directly across from Rinconada Library. A 4-foot high fence along  
15 Newell Road makes no sense given the exposure to all of these public locations. I don't know of  
16 any homeowner in this City that would not ask for a Variance along Newell Road that faces out  
17 to a public parking lot. So, all we heard was vision triangle, relying exclusively on a Municipal  
18 Code that I'd be interested to hear from the City Attorney on because it simply does not apply  
19 according to my reading.

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1 And the rest of the Variance is necessary here given the unique location of this property and  
2 that was not addressed. And the fact that I can show you with my handouts with any drive  
3 around town and the slides that we've provided you multiple homes with fencing all around  
4 these busier streets. Multiple homes with 6-foot high or higher fencing right along the corner of  
5 a lane, not a street, and a street. So, this is the condition and the reason why this is allowed at  
6 1008 Bryant, the reason why... Byron excuse me, the reason why it's allowed at 1160 Bryant is  
7 because at that time the City interpreted their own code correctly. They correctly understood  
8 that the lane was not a street improved for vehicular traffic. So, it does not apply and I will pass  
9 out some further views so that you can get a better orientation of other locations in the City  
10 that have this condition. Thanks.

11

12 Chair Riggs: I'm sorry is your client going to address the Commission?

13

14 Ms. Cindy Zhang: Good evening ladies and gentlemen, my name is Cindy Zhang, homeowner of  
15 1210 Newell Road and my husband George Choo he is listening in from Shanghai, China now;  
16 you know I have on my cell connected with him.

17

18 We moved to Silicon Valley 25-years ago and we made it our home ever since then. We've  
19 really enjoyed it. 1210 Newell Road was purchased in August 2013. The 6-foot fence was there  
20 along with all the property. We then hired Roger Kohler's team to design a new home for our

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1 family. During the design stage, no one questioned anything about fence height. I expected a 6-  
2 foot fence would be there, therefore we made two very important decisions based on that.  
3 First, we relocated the driveway from facing Rinconada Library on the Newell Road to the alley  
4 facing the tennis courts because it was for privacy purpose. I didn't want people to peek into  
5 our back yard whenever we drive in our vehicle or we drive the vehicle out of our garage. And  
6 then the second decision was Mr. Kohler's advice and then the design expertise we used a lot of  
7 large glass patio doors because we want to be able to enjoy the outdoor living with the 6-foot  
8 fence being there. And we always made it very clear to the City the fence about... we won't  
9 change the 6-foot fence. Privacy, safety, security are extremely important for us. I guess it's the  
10 same for all of you, everybody, here. We have three children, one daughter, two younger boys,  
11 my husband does not live with us for most of the time. When we started on the join to build  
12 this new home about 5-years ago my kids only 11, 9, and 8-years old. As you can imagine myself  
13 alone with three young kids we needed very, very, much an extra sense of security and I still  
14 could not express how much shocked when I first learned there is a code violation on this fence  
15 when I received that notice from the City.

16  
17 They are talking about vision triangle on the rear corner where the Community Lane meets the  
18 Newell Road and they insisted on we lower the fence height to 3-feet. 3-feet means like this  
19 height and then our rear side... just assume this is the lot, our rear side 65-feet and then 35-feet  
20 means this much. You know you cut in and there's 3-feet along the Community Lane, 35-feet

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1 long and 35-feet long along Newell Road; only a 3-feet fence. You know this is absolutely just  
2 literally no fence, open back yard. Its almost just gives me enormous pressure. I had many,  
3 many sleeps last night. Still... I still have a sleeping difficulty and then many times I'm crying to  
4 my husband. Had I known this I wouldn't consider relocating the driveway. We would have kept  
5 the garage outside to get more privacy. Also, even had I known this I wouldn't even consider  
6 buying this property because of this. I didn't expect... we have no privacy, just a house exposed  
7 to the public facility and the public roads.

8

9 And another thing I would like to challenge (interrupted)

10

11 Chair Riggs: You can... please just finish and be judicious of your time.

12

13 Ms. Zhang: Sure, the height of the fence measurement. I have a totally different opinion with  
14 what the City stated here from Planning. For example, they say the interior fence height  
15 between my home and then my neighbor, Mr. Joe is my next-door neighbor, is 7-feet 5-inches  
16 but I think they must measure wrong. This is the fence, this is the 6-foot marker... 7-foot marker  
17 and I think we all can see this is not 7' 5". And they are talking about the front facing fence, 7-  
18 foot 5-inches. Again, this is our front yard, 6-foot this is with the lattice 1-foot, without it not  
19 even 6; with this about, I mean you know 6' maybe 9", 6' 8", you know that's it. So even on the  
20 street, the Newell side (interrupted)

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Chair Riggs: If you could wrap up your comments, we're a little over what's been allowed.

Ms. Zhang: Sure, my point is here on all four sides the measurement stated here is incorrect.  
Thank you very much. Thank you for your time.

Chair Riggs: Thank you. So, I think before we go into a public hearing, I have three comment cards from Mr. Cala, Mr. Longstaff, and Mr. Keopl but any specific questions from Commissioners on the content from Staff?

Mr. Lait: And I just might also suggest that we... I don't think we've done disclosures yet too.

Commissioner Summa: What?

Mr. Lait: Did you do (interrupted)

Chair Riggs: We did not and we can say that this is quasi-judicial item and that we do need to do disclosures but maybe we can have questions first just because I had already... any specific questions?

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1 Commissioner Lauing: Are these to Staff?

2

3 Chair Riggs: Correct, to Staff.

4

5 Commissioner Roohparvar: Does that include Albert?

6

7 Chair Riggs: What's that?

8

9 Commissioner Roohparvar: Does that include Albert?

10

11 Chair Riggs: That's correct.

12

13 Mr. Lait: [unintelligible – off mic]

14

15 Commissioner Roohparvar: I do have a question.

16

17 Chair Riggs: Yeah, Commissioner Roohparvar.

18

19 Commissioner Roohparvar: So, I have some questions for the City Attorney, I want to make sure

20 I fully understand this. The fence heights, the regulations that we're looking at, it's not only

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1 based on the sight triangle where it's not in compliance. There are also additional code  
2 requirements for the remainder of the parcel? So, it's on two bases, it's on the bases of the  
3 sight triangle and the basis of the remaining fence around the property?

4

5 Mr. Albert Yang, Senior Deputy Attorney: That's correct. The request for the Variance is for to  
6 allow additional height on all around the property in addition to allowing [unintelligible]  
7 (interrupted)

8

9 Commissioner Roohparvar: The Variance on the sight triangle.

10

11 Mr. Yang: In the sight triangle area.

12

13 Commissioner Roohparvar: Go ahead.

14

15 Chair Riggs: Are you finished Commissioner Roohparvar? Commissioner Lauing and the  
16 Commissioner Templeton.

17

18 Commissioner Lauing: Would you remind us of the lattice on top of fences? That regulation  
19 compared to the actual fence. Is that a freebie or does that count as part of the fence? I don't  
20 recall that.

- 
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Ms. Jodie Gerhardt, Manager of Current Planning: So, the lattice is considered part of the fence structure.

Commissioner Lauing: Ok, I didn't recall that. Is it Staff's interpretation that the existing... reported existing 6-foot fence that was there, to begin with, is now sort of overruled because it's an entirely new property as opposed to a remodeled property so that it might be grandfathered in?

Ms. Gerhardt: There are several... fences don't require a Planning Permit or a Building Permit, they are just required to adhere to the code. And so, there are several illegal fences throughout the City so that is likely the case here for the existing fence that was there prior to the house.

Commissioner Lauing: Ok so you're saying there's no difference because they put up a new house as opposed to a remodeled house that just happened to have an illegal house... sorry illegal fence when they moved in?

Ms. Gerhardt: Correct.

Commissioner Lauing: Ok, that's it for now.

- 
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Chair Riggs: Alright Commissioner Templeton and then Commissioner Waldfogel and Commissioner Alcheck [note- Vice-Chair Alcheck]. I'll remind you that we still have a hearing to go through as well Commissioners.

Commissioner Templeton: I wanted to ask... well, I'm trying to figure out your... you're trying to segment our comments so I have questions of Staff. Can you clarify what you want before and what you want after?

Chair Riggs: I'd like detailed questions and clarifications based on the presentations. I'd like to... please withhold your dialog until later if you can.

Commissioner Templeton: Ok.

Mr. Yang: Sorry, if I could interrupt. You know if we're going to get into these sorts of questions, I'd like to do the disclosure first if you don't mind.

Chair Riggs: That's fine we can do disclosures. Let's start with Commissioner Waldfogel if you don't mind?

- 
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1 Commissioner Waldfogel: I drove past the property after I saw the Packet.

2

3 Commissioner Summa: Yeah, I went and looked at the property and I also looked at the history  
4 of the property on Google maps.

5

6 Commissioner Templeton: No disclosures.

7

8 Chair Riggs: Nothing to disclose.

9

10 Vice-Chair Alcheck: Yeah just for clarification, it's not a disclosure if we visited the property. I  
11 had no contacts with the applicant and I don't have... I don't live near the applicant.

12

13 Commissioner Roohparvar: No disclosures.

14

15 Commissioner Lauing: No disclosures.

16

17 Chair Riggs: Commissioner Templeton.

18

19 Commissioner Templeton: Could you clarify whether this property was inspected when it was  
20 being built?

- 
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Ms. Gerhardt: So, this is a two-story house that went through our Individual Review process so the house itself would have been inspected prior to occupancy.

Commissioner Templeton: And did it pass inspection?

Ms. Gerhardt: Yes, it would have had too to be occupied.

Commissioner Templeton: And was the fence on the site at the time?

Ms. Gerhardt: That's the information that I do not know.

Commissioner Templeton: Ok and what can you tell me about the difference between a street and a lane and a driveway or is that discussion? Bill [note- Chair Riggs] you're pulling your hair over here so do you want me to wait for this kind of question?

Chair Riggs: If you all would prefer; we're having the dialog that we need to have after the hearing. I'd prefer to maybe to withdraw these comments unless there's really specific questions on what was presented. I think that (interrupted)

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1 Commissioner Templeton: [off mic] These are all relevant but it's (interrupted)

2

3 Chair Riggs: I'm not disagreeing, they're relevant but I think that we need to hear from the  
4 public and if you have something specific please (interrupted)

5

6 Commissioner Waldfogel: Yes, a specific technical question, you can differ it if you wish. Just  
7 remind us the definition of natural grade.

8

9 Chair Riggs: Commissioner Summa.

10

11 Commissioner Summa: [off mic] I can wait if you want.

12

13 Chair Riggs: Commissioner Alcheck [note- Vice-Chair Alcheck].

14

15 Vice-Chair Alcheck: Yep, the same, I'll wait.

16

17 Chair Riggs: Yeah ok so I'd like to... I think its... we need to open the public hearing and then  
18 hear from our... hear from the public. So maybe we can hear from John Cala first and after John  
19 Cala Derek Longstaff.

20

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1 Mr. John Cala: Good evening, my name is John Cala, I live at 1420 Parkinson Avenue which is  
2 two houses down from 1210 Newell. I'll keep my comments briefly, very brief, and respectful of  
3 your time. First off, we had a lot of discussion in the earlier presentations about the fence. I  
4 would remind you all of the fences, every bit of the fence is above the allowed height,  
5 notwithstanding that side discussion about the triangle. I've written in objection to that, I don't  
6 like the fortress feel that it creates for the neighborhood. Several of my other neighbors have  
7 written to that effect as well and in your Packet, I see that there are other neighbors that are  
8 more sympathetic and support the fences. So, you have mixed views in the neighborhood. I've  
9 spoken out against it because it creates a fortress.

10

11 Secondly with respect to the alleyway and how you... I'll leave the legal interpretation of what  
12 might come to bare there. I drive down that alley every day. My driveway is on the back, my  
13 garage is there, I park in the garage. It is incredibly unsafe. There is no visual sight line for me  
14 exiting across the sideways onto Newell for the bikers or the pedestrians on the sidewalk.  
15 None. I cannot see until I've actually crossed the sidewalk because of that. Those of you that  
16 are familiar you'll know that Newell is the main transport road for the kids riding their bikes  
17 down to Green Middle School in the morning. So, in addition to the cars and the safety of the  
18 cars, you've got the issues of the sidewalk and the pedestrians and the bicyclists on the  
19 sidewalk. I don't know if that's relevant legally but I'm just offering that point of view and  
20 speaking out against it.

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Lastly, if you were to ask the homeowner to produce the records from the fence-building company and the invoices there. You will find that the fence was constructed three days after the final site inspection. Thank you.

Chair Riggs: Mr. Longstaff.

Mr. Longstaff: [unintelligible – off mic]

Mr. Lait: Yeah, this is the (interrupted)

Chair Riggs: Alright, ok.

Mr. Lait: Yeah unless there's another public speaker and then the applicant would have a chance to rebut.

Chair Riggs: Mr. Keopl.

Mr. Joseph Keopl: Good evening, my name is Joseph Keopl, I live at 1430 Parkinson Avenue, and I'm the abutting neighbor to Cindy's property. There are a couple issues here that I think are

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1 important to understand. One is as I read through the documents that were presented here  
2 today what I didn't note was the unique nature of the property at 1210 Newell in conjunction  
3 to those other public facilities that were shown on the slide. The key thing there is that the  
4 library is directly across the street, the Palo Alto Art Center is next door to that, and then the  
5 tennis courts are behind this. To give you some kind of understanding of what this means, as  
6 I've looked at data for 2017 there were 24,000 visits, separate visits to that library that walks  
7 along that line that their property fronts. There are 10,000 people who attend certain events at  
8 the Palo Alto Art Center including the glass and the pumpkin glass displays that are there. That's  
9 not even counting the people from the tennis courts, the park that's there, and often I've gone  
10 in the back there while that house was being constructed and encountered individuals who  
11 really clearly shouldn't have been there. As I mentioned before too many neighbors that I've  
12 run into people dumping garbage back there and people who really shouldn't be there. So, they  
13 do present a different security risk than what was presented in the documents here and it really  
14 needs to be taken into account. While that house was down, I was the frontage property to  
15 Newell and I saw many things that were very disturbing from a point of view of privacy,  
16 security, and quiet enjoyment of my property.

17

18 We can't take a cookie cutter approach to these things and Variance is put there for a specific  
19 reason and that is if you have an exceptional property you have to make an exceptional  
20 remedy. And in this particular case, I think they have warranted that; I think they've

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1 demonstrated that. While there is an issue with respect to that Community Lane, it really has to  
2 be looked at from its overall safety perspective. I don't think you can find anyone on that block  
3 who could tell you what direction you drive on that lane. I will tell you one thing, a simple  
4 inspection of that will show a stop sign at one end on Pine Street. No stopping on the side  
5 facing Newell. I'm not even sure you're supposed to be able to drive out there. Even if that was  
6 the case the stop sign and the vegetation at the end of the alley on Pine Street blocks the view  
7 as well. There's no triangle sight, there's no sight there, you have to do the same thing that you  
8 do all the time in an alley. Proceed to around 5 to 11 MPH and be very cautious as you move  
9 forward for the reasons that John stated; that there are bicycles there, there are kids, and there  
10 all kinds of people there. If they did take down that fence at that area there, they still have a  
11 sight angle problem because there's vegetation that I believe the City owns that presents a  
12 similar blockage that was upon Mr. Gutierrez's slide over there when he showed the picture. If  
13 you didn't notice it because he might have been pointing to the line sight. The vegetation is  
14 there, that would have to be dealt with. I'm very concerned about vehicular traffic and people  
15 and injuries and those kinds of things. And one of the things that I think would be... whatever  
16 happens to this particular case there needs to be a mirror put up there or one-way directional  
17 sign or something to tell the public when they're driving in there which way to drive down  
18 there, how to proceed safely because it does require some type of a mirror even if you took  
19 down the fence. That fence removal is not going to change that issues (interrupted)

20

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1 Chair Riggs: Ok, thanks [unintelligible].

2

3 Mr. Keopl: So, I'd like to conclude my comments and thank you for listening.

4

5 Chair Riggs: Ok that concludes our hearing unless the applicant would like to make another  
6 statement? So (interrupted)

7

8 Mr. Longstaff: Very briefly because I just want to correct a couple things.

9

10 Chair Riggs: Ok, Mr..... Thank you, Mr. Longstaff, go ahead.

11

12 Mr. Longstaff: We have in the Package you got from the applicants, slide 53, 54, 55. So one of  
13 the earlier speakers, John I think something, anyway said that the fence was put up three days  
14 after final inspection and he'd like to see the contractor's records. We already provided that.  
15 The fence was up about 2-weeks, 3-weeks before the final inspection. It was there so those  
16 slides make it clear. My client took a cell phone picture... just happened to take a picture of her  
17 kitchen so you can see... go back one, please? Thank you. The final inspection is 6/14/2018 and  
18 then the next slide is the picture out of her window and that's the fence that's already there  
19 and then the next... so that's 6/6. These are the canceled checks, she paid him half when he  
20 started the job and half when he finished the job so that's May 31<sup>st</sup>. So, it was present prior to

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1 the final inspection and there are other slides in the deck that make clear that the 6-foot high  
2 fence along Newell was always in the plans. These are plans that the neighborhood would have  
3 had a chance to speak about, these are plans that the City reviewed, these are plans the City  
4 approved, and they designed and built their house with a lot of glass based upon those  
5 approvals. So, we did cite some case authority, I will be the first to admit it's not a slam dunk  
6 legally but there is some good case that once a City's has blessed the mess they have to sort of  
7 live with it. So, in this sense, the 6-foot high fence in the plans should have been allowed.

8  
9 The lattice is probably where we're getting some differences in measurements between the  
10 two sides but this conversation about its every single fence is over the limit might be an  
11 interruption based upon the lattice; which as this Commission rightfully pointed out is not as  
12 clear as it should be in the code about the lattice. I think you need to clean... ideally, that would  
13 be cleaned up but in reliance upon that and in reliance upon the architect advising them at the  
14 time they built it the right way.

15  
16 And lastly, I'm sorry to hear that the Community Lane, the little alleyway, is somehow  
17 dangerous. That's unfortunate and it's unfortunate to a mother of three kids that lives right  
18 there. It's also the case that that's been the situation for a long time, a very long time. Thank  
19 you.

20

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1 Chair Riggs: Thank you. That concludes the public hearing, we'll bring it back to the  
2 Commission. Before we do that, there were two things that came out in the premeeting  
3 yesterday Mr. Gutierrez and Ms. Gerhardt that I think I would just like you to mention. You  
4 mentioned yesterday to Vice-Chair Alcheck and I that code compliance is complaint based and I  
5 wonder if you could speak to that. And also, how we should treat a quasi-judicial item and that  
6 it's judging the property against the code, not against other properties. And I was hoping you  
7 could speak to both of those items and Dr. Lait and Albert if you would like to speak to that too  
8 but I think that would help us direct our discussion a little better.

9

10 Mr. Gutierrez: Yes, so Code Enforcement is in this City operated under a complaint-based  
11 system. So, you would need to submit a formal complaint to Code Enforcement for us to initiate  
12 Code Enforcement action. That's typically done through the 311 System or contacting a Code  
13 Enforcement Officer via email and even at times a planner. You say this is a possible violation I  
14 suspected, I've observed it at this address on this date, a lot of times they submit photos of  
15 that, and then we would proceed with a Code Enforcement investigation to foresee if that is  
16 the case. I mean the code is dense so sometimes what may be perceived as a Code  
17 Enforcement violation isn't actually that. So, we do confirm that first and then we... after we do  
18 a confirmation, we inform the complainant that there is or there isn't and then we inform the  
19 subject property owner wherever the infraction lies.

20

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1 Mr. Lait: Right and so with respect to the subject application, yeah, it's true, there may be other  
2 properties that have non-complying illegal fences; you know we don't know. Like Sam noted  
3 our Code Enforcement is a complaint-driven effort at this time and for your consideration when  
4 you're reviewing this Variance request it's on the Findings. And the Findings are pretty clear as  
5 to what the standard for review is and maybe Sam, can we get those Findings back on the  
6 board for the Commission? And in this... as you review the Findings for this it does not include  
7 any sort of reference to existing conditions of other properties, that's not a standard for your  
8 review. These are the special circumstances that apply to the property that deprive the owner  
9 of privileges enjoyed by other properties in the same district and you can review the other  
10 ones. That the granting of the application would not constitute a special privilege to this owner  
11 and not others or it would be detrimental injurious to the property, public health, safety,  
12 general welfare, or convenience. And all three of these would have to be answered in the  
13 affirmative to grant the Variance and one area where I think we get... very clearly have a  
14 concern is with respect to the visual triangle that we're trying to maintain. So that pedestrian,  
15 bicycle and motor conflicts can be reduced or eliminated with the inclusion of that provision  
16 and we have other references in our Zoning Code, excuse me, in our Municipal Code that  
17 speaks to what a street is and a street does include by definition an alley. And so, we feel like in  
18 this particular area in particular that we're not able to support the Variance Findings but of  
19 course, that's before the Commission now.

20

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1 Chair Riggs: Ok thanks for that framework, I think that was somewhat lost in... not... Sam, you're  
2 great, your presentation was great. I just want to make sure that it [unintelligible] lost. So, if my  
3 Commissioners don't mind, I want to start in a different way. I know Commissioner Templeton  
4 you had a lot... you said you had a lot of comments so if you don't mind, we'll start with  
5 Commissioner Templeton, Commissioner Summa, and then Commissioner Waldfoegel and then  
6 we'll do the same on this side. Any questions, comments, let's just keep it moving.

7

8 Commissioner Templeton: Thank you Mr. Chair. So, I did want to talk... I had some questions  
9 about the selective enforcement process, you said that's complaint driven. Are there any other  
10 factors that you... a process you go through to ensure that it's not somehow biased?

11

12 Mr. Lait: Well somehow not what?

13

14 Commissioner Templeton: Biased.

15

16 Mr. Lait: Yeah, well I would say that it's not selective, its complaint driven. When we receive a  
17 complaint, we send (interrupted)

18

19 Commissioner Templeton: That is a selection criterion, right? That's the selection criteria is  
20 what you're saying?

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Mr. Lait: I'm distinguishing complaint driven from proactive where if we find a violation, we would follow up on it. We're simply not Staffed for that. I mean we have three positions in total in the City and two of them are vacant right now. So especially at this point in time, we're only able to respond to complaints that come in.

Commissioner Templeton: Ok thank you and regarding the measurement accuracy can you clarify? One of the applicants mentioned a discrepancy between the measurements.

Mr. Gutierrez: Yes, so I believe that they didn't include the lattice as a part of the fence because it's a separate structure that's bolted on but we do include anything that's attached to the top of the fence that is structural to be a part of the fence. So, this could be a decorative light that's on top of the fence. That's is the totality of the fence from the ground up.

Commissioner Templeton: But in the photo, it looked like the pole that she was holding took the... it was right... the lattice was present. Is that... do you have any other measure (interrupted)

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1 Mr. Gutierrez: Yeah, I don't know how they measured that, I'm not sure if that was 6-feet.  
2 When this all started this was again with the Code Enforcement case and the Code Enforcement  
3 Office at the time did take measurements of the fence from the public right of way.

4  
5 Commissioner Templeton: Ok and did you discuss as part of your alternative ways of dealing  
6 with this case, did you talk about removing the lattice?

7  
8 Mr. Gutierrez: The lattice and bringing down the fence height to the proper code height which  
9 would be 4-feet along Newell. So that was discussed and then like I mentioned earlier in my  
10 presentation we discussed the privacy factor which then was you could plant hedges and  
11 shrubs. There's a number of properties that do do this, they have a smaller fence and then they  
12 have dense vegetation as a privacy buffer, sound buffer as well. So those were the options that  
13 were discussed.

14  
15 Commissioner Templeton: And for the sight triangle did you discuss alternatives like mirrors or  
16 other ways of handling the safety of the intersection that didn't involve cutting through the  
17 back yard.

18  
19 Mr. Gutierrez: So, the mirrors aren't something that's referenced in the code so that wouldn't  
20 be something that's applicable.

- 
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Commissioner Templeton: Ok and inspecting the fence height of adjoining properties is out of scope? Is that what you were saying earlier?

Mr. Gutierrez: Correct, that wouldn't be something that we would look at for Code Enforcement nor would it be something during the Variance application. That's not apart of the required Findings.

Commissioner Templeton: How does that relate to the Finding here about the enjoying the property with the privileges that the other properties have? How does that... I don't know if that's an Albert question?

Mr. Lait: I think what you need to look at is a couple of factors. One is our City does have different regulations for corner properties. And so, I think if there is... if you are looking at how the regulations apply to other corner properties in the same zoning district with the same conditions, I think that might be a measure of standard to look at. And in that context, all of those properties are subject to the same standards.

Commissioner Templeton: Is the property on the other end of the block does that have a 35-foot triangle, sight triangle?

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Mr. Lait: [off mic] I don't know the reference (interrupted)

Mr. Gutierrez: Which block would you be talking about, Community Lane or Newell?

Commissioner Templeton: Community... the block that the subject property of the applicant.  
So, here's the applicant, does this one have a 35-foot line of sight triangle?

Mr. Gutierrez: At their corner of Newell and Pine? I'm not aware of their situation because if  
you're speaking to the Newell and Pine intersection, the one that you pointed too in the top  
left, that one is different in the sense of (interrupted)

Commissioner Templeton: I mean the one on Community Lane on the same block that the  
house is on. Maybe if we brought up the picture (interrupted)

Ms. Gerhardt: So, we'll get the neighborhood diagram up here but I think you're talking about  
the other end of Community Lane, is that correct?

Commissioner Templeton: That's correct.

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1 Ms. Gerhardt: Ok so in that... yeah, that particular house is facing in a different direction so it  
2 actually has its front setback... I'm not sure what that street is.

3

4 Commissioner Templeton: I'm just wondering about the Community Lane corner if that  
5 (interrupted)

6

7 Ms. Gerhardt: Yeah so it has a very low fence. I've got it up on Google Maps but it's very low,  
8 either 3 or 4-foot fence. I can't tell from the (interrupted)

9

10 Commissioner Templeton: Great, thank you. I think that's everything I had, thank you very  
11 much.

12

13 Commissioner Templeton: Commissioner Summa.

14

15 Commissioner Summa: Thank you. Thank you, everyone, for coming out tonight and thank you  
16 for the Staff report. I thought the Findings were very thoroughly and nicely made. I did have a  
17 question on Packet Page 44... 43 and it relates to some of the discussion from the attorney. Its...  
18 and this is I guess maybe an Albert and Jonathan question but it's not my impression that an  
19 approved permit or an approved inspection gives you the right to no be in compliance with the  
20 law based on... would that be accurate?

- 
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Mr. Yang: That's correct so even if a permit is issued in error or there's a final inspection that's approved in error it does not provide any right to continue that condition.

Commissioner Summa: Ok thank you for that and does Staff have any observation on the placement of garages in general on this block because it seems to me like they're mostly in the back? And maybe they would have been required to comply with our... that law and put it in the back on the alley anyway. Does Staff have an opinion on that?

Mr. Lait: So that would have been reviewed during the IR process and I think for the purpose of this Variance I don't think we've done any analysis as to the context-based garage placement.

Commissioner Summa: Ok yeah, yeah, yeah (interrupted)

Mr. Lait: I mean we could (interrupted)

Commissioner Summa: Because all the other garages are in the back on that block.

Mr. Lait: Yeah, we could probably do some quick work on that but I (interrupted)

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1 Commissioner Summa: No, I was just curious, you don't have to do any more work on it, I was  
2 curious. It did appear to be the pattern on that block. So, and I have always thought in the code  
3 that it was clear that we treat alleys like streets. It's in the definition in Title 1 it makes that very  
4 clear. And the definition in the other place, I forget where it is, Title 21, is for the... is  
5 considering this for with regards to the Subdivision Map Act which I think is a different context  
6 and it clearly, in that title, it clearly says alley is a private alley. And since this is a public alley I  
7 really... I don't see that that's very pertinent in this situation. So, and I think that the safety  
8 issue at corners is a very real consideration so those my thoughts for now.

9

10 Chair Riggs: Commissioner Waldfogel.

11

12 Commissioner Waldfogel: Thank you. I think there are two issues so I'll just take one at a time.  
13 First one is the intersection view triangle situation. So, if this is an intersection then my  
14 understanding is, we have no ability to make a... to allow a Variance, is that correct? So is there  
15 any way... I heard an interesting suggestion from the public that if this were... if Community  
16 Lane were one-way then the circulation... there was no circulation out from Community Lane to  
17 Newell that we wouldn't encounter this situation. Would that be a possible cure if we were to  
18 one-way Community Lane? Just... I just want to run through a hypothetical with you.

19

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1 Mr. Lait: You know I'll look to Staff to help out. I don't know that there's a distinction between  
2 in our code about whether one-way or two-way but I'll note that by bicyclists would certainly  
3 travel in it. Others use the alley besides motor vehicles too so that's something to be mindful  
4 about.

5  
6 Commissioner Waldfogel: I'm just looking for a possible cure. I'm trying to be creative and I  
7 heard an interesting suggestion but it sounds like it may not be doable. I mean unless you have  
8 some other idea.

9  
10 Mr. Lait: Yeah so there's no distinction in our code today, you know maybe a future  
11 consideration.

12  
13 Commissioner Waldfogel: Yeah ok I mean it's maybe something we could make a note on as we  
14 look at code cleanups sometime in the future. And then I think beyond this the Fence Code is  
15 pretty clear. I think that your analysis is pretty straight forward and I don't really understand  
16 why there's so much ambiguity here. I mean it's the code is pretty clear about 4-feet, 6-feet,  
17 subject to this natural grade question. Is natural grade from the street grade or is that from the  
18 improved grade when you measure fence height?

19  
20 Mr. Lait: Yes, it's typically from the grade adjacent to the fence.

- 
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Commissioner Waldfogel: Adjacent to the fence?

Mr. Lait: Yeah.

Commissioner Waldfogel: Ok so you can... and you're allowed to... I think you're allowed to fill by some about 6-inches or 12-inches from (interrupted)

Mr. Lait: So, what we do is we get a survey typically for a new home and so we have at least a topical survey that reveals what the grade is at that particular locations and we measure and extrapolate from that.

Commissioner Waldfogel: Ok so we're not measuring from sidewalk grade to top of fence?

Mr. Lait: No, no.

Commissioner Waldfogel: I just want to be clear on what the standard is.

Mr. Lait: Correct.

- 
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1 Commissioner Waldfogel: Please. I think that Mr. Gutierrez has a comment here.

2

3 Mr. Lait: I don't know if the public though (interrupted)

4

5 Commissioner Waldfogel: Anything to add? That's all I have.

6

7 Chair Riggs: Alright, Commissioner Alcheck [note – Vice-Chair Alcheck].

8

9 Vice-Chair Alcheck: Actually, can you come back to me?

10

11 Chair Riggs: Commissioner Roohparvar.

12

13 Commissioner Roohparvar: Sure, I just echo Commissioner Summa and Waldfogel sentiments. I

14 feel the Packet is pretty clear, this is a pretty clear-cut issue to me. I will say it right now I

15 cannot make the Findings. Variances require a uniqueness of the property that's inherent in the

16 physical... how it physically is. This is not a situation like that and granting a Variance in this

17 instance would be a special privilege without a doubt. Variances aren't created to whoever

18 doesn't like the code come in and say hey, can you cut me a break here? The fact that other

19 neighbors are not complying with the law doesn't make it ok in this instance and I mean that's

20 pretty much what I have to say. I do feel a lot of empathy for the homeowner and what they

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1 are going through. I just don't think... I think our hands are tied in this instance and I don't think  
2 a Variance the appropriate mechanism by which to accomplish what they are trying to achieve.

3

4 Chair Riggs: Commissioner Lauing?

5

6 Commissioner Lauing: Just a couple comments and I won't repeat prior colleague's comments.

7 It is odd and unfortunate that the building inspector didn't catch something that is to me as  
8 obvious as the height of a fence but he didn't so that doesn't change the status of the law. I'm  
9 not convinced that a 6-foot fence is much more or less safe than a 4-foot fence but that's not in  
10 our Findings anyway and as the applicant heard there's almost no constraints outside of the  
11 vision triangle on landscaping. So, you could build something that's 15-feet tall as long as it  
12 doesn't interfere on the corners which is quite an effective natural remedy. So, I'm in support  
13 of the Staff recommendation.

14

15 Chair Riggs: Any... Commissioner Alcheck [note -Vice-Chair Alcheck].

16

17 Vice-Chair Alcheck: Yeah ok thank you for your comments and your presentation. So, I had a  
18 couple questions, I don't know... look, I think is some uniqueness here. I think strict application  
19 of our zoning regulations do suggest that there's a substantial hardship here. I think... I guess I  
20 have a could question about... well, let's start with this. I'm not entirely sure that I can make the

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1 Findings for a Variance either but I am curious to know what is the path a resident should take  
2 legally if they disagree with an interruption by the Planning Department say with respect  
3 whether this road is for vehicular traffic as opposed to whether it qualifies as a lane which is not  
4 the word that we used in Section .040 [note- Municipal Code Sections 16.24.040] ? And what  
5 would the path be for an applicant who wished to challenge an interpretation they think is  
6 wrong?

7

8 Mr. Yang: So, for Zoning Code interruptions we do have a process to ask the Director to issue a  
9 formal interpretation and then there's a... something that can follow on from there. For issues  
10 outside of Zoning Code, we don't have similar provisions. In this instance where the dispute was  
11 initiated through a Code Enforcement action, the property owner could request a hearing  
12 before an Administrative Hearing Officer over the validity of that code violation. And that's an  
13 area where you could argue the interpretation of the code and then from there once that  
14 administrative process is over you could seek judicial review.

15

16 Vice-Chair Alcheck: Ok. I think there may be some relevance to the suggest that the... I think  
17 there's... sort of when you look at it and you try to consider whether there's some legal  
18 significance to the argument that the interpretation may be wrong changes things. If we were  
19 to look at this intersection as something less than the type of intersection arises to the level  
20 defined in .040 [note - Municipal Code Sections 16.24.040] then maybe that would change how

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1 you could have the code applied to the corner. And so, I think that doesn't necessarily address  
2 what happens along Newell Road which is sort of different. I think that to some extent the path  
3 for the interruption argument might need to go down a different road.

4

5 I am a little... I'm not excited about reviewing this when there's what seems like varying  
6 differing measurements. It didn't occur to me to take my own measuring tape out there. I  
7 didn't anticipate actually that the owner would suggest that our measurements were off. I  
8 don't believe that you came here with the wrong information as a California Licensed attorney  
9 so I really wonder if maybe ahead of the City Council meeting you ought to go out there  
10 yourself before you make the presentation and double check. Maybe even meet the applicant  
11 and check the measurements because if as the pictures demonstrated not very many of the  
12 fences are even rising above 6-feet or 7-feet then it would... I think it would be better. I just  
13 think it would lend credibility to the Staff's assessment.

14

15 I agree with other Commissioners on the points they made. I have a question; would it change if  
16 the fence wasn't solid? If they use a metal railing fence along Newell?

17

18 Mr. Gutierrez: No, it would be the same.

19

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1 Vice-Chair Alcheck: I think the thing that I'm struggling with the most here is that we are  
2 acknowledging that they could create a landscaped barrier that would impede visual sight  
3 almost entirely. And that may not necessarily... if they planted hedges along Newell, they could  
4 theoretically be much higher than 4-feet?

5  
6 Mr. Gutierrez: They could and everyone could do that because we do not regulate the height of  
7 the vegetation outside of that sight triangle. So, you could plant cypress trees along... behind  
8 the code compliant fence and have... cypress trees grow up to 20-feet and more for example.  
9 The one regulation that would or the one thing that you couldn't do was have vegetation that  
10 overgrows into the public right of way blocking the sidewalk.

11  
12 Vice-Chair Alcheck: Yeah no I just... there's some components that are... that seems... well,  
13 whatever so I guess my only statement would be that I don't know that we can make the  
14 Findings for a Variance. I think that there may be a pathway with respect to the interpretation  
15 argument on the rear which would change the rear triangle [note – sight triangle]. But I think in  
16 any case I wonder if we could encourage Staff to also consider the... when we looked at the  
17 picture of that... if you wouldn't mind putting that picture up.

18  
19 Mr. Gutierrez: Which photo?  
20

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1 Vice-Chair Alcheck: Of the path, that lane, that alley with the... so there's a pole there. I'm  
2 wondering if it would be possible for the City to also consider the addition of a mirror just  
3 because I guess both sides of the table sort of talked about it and it seems like it would be a  
4 good addition.

5  
6 And then the second... I guess the last thing is to what extent is it... I guess since you're already  
7 aware of this particular entrance would... I mean there's two sides to this street. Is the other  
8 side in compliance? Are we (interrupted)

9  
10 Ms. Gerhardt: Yes, the other end of... that was... we were talking to Commissioner Templeton.  
11 The other end of it has a front setback and it has a lower fence.

12  
13 Vice-Chair Alcheck: And do we know why this side doesn't have a stop sign if the other side  
14 does? Is there any (interrupted)

15  
16 Ms. Gerhardt: Oh, I didn't mean stop sign, I meant lower fences. The other end of Community  
17 Lane has lower fences.

18  
19 Vice-Chair Alcheck: Right and is their thing... is there any information on why one side has a  
20 stop sign and the other side doesn't? Was this (interrupted)

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Chair Riggs: I can answer that question. You need 1,500 trips to warrant a stop sign, the other side doesn't warrant a stop sign either. The... it's (interrupted)

Mr. Yang: We don't have that information

Chair Riggs: Ok I'm trying to educate you.

Commissioner Roohparvar: Educate us, I'd like to know.

Vice-Chair Alcheck: Appreciate it. That's all I got. Oh, wait I'll add one more thing, I think with respect with what you asked about. I think it's different for corner lots because the front of this lot is not Newell or this lane, it's... I know the address says 1210 Newell but the front edge of this is actually on a different street, right?

[note – female]: Parkinson.

Mr. Gutierrez: Correct it's on Parkinson.

- 
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1 Vice-Chair Alcheck: So, any location actually along Newell would have not been considered  
2 front for a corner lot with respect to your question about the location of the driveway and a car  
3 parking. Yeah, it wouldn't have changed, it would have been restricted to have access to the  
4 location of the parking facility along Newell because that's not considered a front street.

5  
6 Commissioner Summa: [off mic] It was before [unintelligible] (interrupted)

7  
8 Vice-Chair Alcheck: Right, no, I know I'm saying the... you could have accessed a rear parking  
9 facility on Newell regardless of the predominance of parking facilities on that street because it's  
10 not the front... it's a side street. So even if the (interrupted)

11  
12 Mr. Lait: I'm sorry it's just not relevant to the Variance.

13  
14 Vice-Chair Alcheck: No, I know but it is... look I'll say this we should have some sympathy for the  
15 fact that maybe when the original survey was done it likely showed... before they submitted  
16 their plans it likely showed a 6-foot fence, an existing 6-foot fence.

17  
18 Chair Riggs: I think Commissioner Alcheck [note -Vice-Chair Alcheck] you're (interrupted)

19

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1 Vice-Chair Alcheck: To the extent that they may not have known that may have changed the  
2 way they design their lot. I think there's... if they would have had to relocate their driveway to  
3 the read anyways and they knew it then that's a different story but, in this case, I think... I'm  
4 just trying to address what Commissioner Summa was saying.

5

6 Chair Riggs: Any other questions or comments? Seeing none, would anyone entertain a motion?  
7 Commissioner Summa.

8

9 MOTION

10

11 Commissioner Summa: Yes, I'd like to make a motion to move Staff's recommendation on the  
12 basis of the Findings.

13

14 Chair Riggs: Do I have a second?

15

16 SECOND

17

18 Commissioner Roohparvar: I'll second.

19

20 VOTE

- 
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Chair Riggs: Any discussion of the motion on the floor? Seeing none well let's just take a vote.

All in favor? Any opposed? Alright, motion carries 7-0. That concludes that hearing.

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

**Commission Action:** Motion to approve Staff's recommendation to deny fence variance request was made by Commissioner Summa and seconded by Commissioner Roohparvar. The motion passed 7-0.

**Approval of Minutes**

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

4. March 13, 2019 Draft PTC Meeting Minutes

VOTE

Chair Riggs: The next item, Item 4, approval of minutes. Public comment permitted, any comments on the minutes? I have no cards. Ok seeing none, all in favor of approving the minutes?

Mr. Jonathan Lait, Director of Planning: (off mic) Motion by the Chair, seconded by the Vice-Chair?

Chair Riggs: Yeah motioned by the Chair? That sounds good, thank you.

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

**Commission Action:** Motion to approve minutes from March 13, 2019 meeting made by Chair Riggs, seconded by Vice Chair Alcheck. Motion passed 7-0.

**Committee Items**

Chair Riggs: No Committee items to report unless Commissioner Summa you have any updates from Ventura? Ok, so no updates from Ventura.

**Commissioner Questions, Comments or Announcements**

Chair Riggs: Comment, questions, announcements, and future agenda items. Can you give us a little bit of a look ahead as a Commission?

Mr. Jonathan Lait, Director of Planning: Your next meeting is canceled.

Chair Riggs: That’s right so no meeting on the 24<sup>th</sup> but in terms of agenda for May 10<sup>th</sup> and May 29<sup>th</sup>?

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1 Mr. Lait: Yes, so May 8<sup>th</sup> right is your next one after that and it's your... one of these evergreen  
2 reports that we'll produce. It's an annual review of the Comprehensive Plan, consistency review  
3 of the Capital Improvement Plan Program, CIP.

4  
5 Chair Riggs: Whatever you just said.

6  
7 Mr. Lait: So that's forthcoming and then we have a couple other items soon. I don't have a date  
8 for it yet but soon we're anticipating Castilleja to be an item that will be before the Commission  
9 so that will be (interrupted)

10  
11 Chair Riggs: And I think the... we... a number of us had asked to see the DEIR early and often on  
12 that one.

13  
14 Mr. Lait: Right once its ready we'll push it out to the Commission.

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16 Chair Riggs: Ok. Any other announcements [unintelligible]? Commissioner Summa.

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18 Commissioner Summa: I was going to ask; at the retreat, we didn't really lay out a process for  
19 doing these the presentation type meetings. Should we do that so that we don't run into a last-  
20 minute change again? Should we agendize it and do it or (interrupted)

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

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Chair Riggs: Well I think... what I suggest is if any of you have suggestions or you want to point me to people that you think would be straight up awesome, which two people have already, we can figure out when we can get them on the agenda when we have holes. What occurred today was that... a little... was a little bit of an oversight... maybe Albert (interrupted)

Mr. Albert Yang, Senior Deputy Attorney: Staff just... Staff failed to properly notice the item to allow the speaker to come and present so it was an error in the way the agenda was published.

Commissioner Summa: But I was just wondering if we need to have a discussion about like a procedure so we're all on the same page and we know what's going on with these meetings as they pop up. That's what I was thinking about.

Chair Riggs: I took it as kind of one of the responsibilities that you all gave me to try to bring in some people that were doing creative stuff to educate our community and each other. So, I think Commissioner Waldfoegel has made some suggestions on some topics that he's challenged me to bring some folks in, Commissioner Alcheck [note – Vice-Chair Alcheck] has some ideas. So, I'm just trying to do some recruitment more than anything so if you want to... I think we should just dialog it and I don't know that we need another separate process to figure out how to set our agendas.

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Commissioner Summa: So then maybe as these people are brought to your attention and if you're planning on having such a meeting just shoot it out to Staff so they can send it to all of us so we can suggest... make suggestions on the meeting. I don't even know what was really being planned for tonight but so that we can all have input since it's a kind of Commission driven instead of Staff driven agenda item.

Chair Riggs: Yeah, I think I can do a better job of letting Staff let you all know what the intent and what the goal of it is. I think that's fine.

Commissioner Summa: [off mic] That's great.

Chair Riggs: And I would just say if you know of people doing interesting stuff like for example, we talked a lot about teacher housing and what is and how we could figure out teacher housing solutions to workforce housing for our civic employees. And Vice-Chair Alcheck happened to run into someone that's doing exactly that last week that's trying to facilitate teacher housing within our region and I think it might be a really good person to come talk us to about some creative solutions in that space. So, let me know if you have ideas.

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1 Commissioner Lauing: What about just the gentlemen you were going to have tonight? We got  
2 some openings in our agenda going forward. Can we get that person on pretty quickly?

3

4 Chair Riggs: Yeah, I've... he's... I asked him for another day and I'm going to suggest we do it on  
5 the 29<sup>th</sup> if we still have space on our agenda and we'll have a little more information about that  
6 as it comes. Alright, anything else? Alright seeing none, it is 7:29 and we are adjourned.

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8 **Adjournment**

9 7:29 pm

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# Palo Alto Planning & Transportation Commission

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Vice Chair Michael Alcheck

Commissioner Ed Lauing

Chair William Riggs

Commissioner Giselle Roohparvar

Commissioner Doria Summa

Commissioner Carolyn Templeton

Commissioner Asher Waldfogel

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Write to us. Email the PTC at: [Planning.Commission@CityofPaloAlto.org](mailto:Planning.Commission@CityofPaloAlto.org). Letters can be delivered to the Planning & Community Environment Department, 5<sup>th</sup> floor, City Hall, 250 Hamilton Avenue, Palo Alto, CA 94301. Comments received by 2:00 PM two Tuesdays preceding the meeting date will be included in the agenda packet. Comments received afterward through 2:00 PM the day of the meeting will be presented to the Commission at the dais.

Material related to an item on this agenda submitted to the PTC after distribution of the agenda packet is available for public inspection at the address above.

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