



# Planning & Transportation Commission Action Agenda: February 10, 2021

Virtual Meeting  
6:00 PM

## Call to Order / Roll Call

Approximately 6:03 pm

Mr. Vinh Nguyen, Admin Associate III: Would you like me to start the roll call?

Chair Hechtman: Well, first I'd like to call this meeting of the Planning and Transportation Commission meeting to order and welcome Commissioners, Staff, and members of the public. And now Mr. Nguyen, if you will call the roll?

Mr. Nguyen: Yes, thank you. Chair Hechtman?

Chair Hechtman: Present.

Mr. Nguyen: Vice-Chair Roohparvar is absent. Commissioner Hechtman? I'm sorry. Commissioner Alcheck?

Commissioner Alcheck: Present.

Mr. Nguyen: Commissioner Lauing is absent. Commissioner Summa?

Commissioner Summa: Present.

Mr. Nguyen: Commissioner Templeton?

Commissioner Templeton: Present.

Mr. Nguyen: Ok, we have a quorum. Thank you.

Chair Hechtman: Thank you, Mr. Nguyen.

## Oral Communications

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

Chair Hechtman: We will move next to Oral Communications. This item is the opportunity for the public to speak on any item that is not on tonight's agenda and we have a 3-minute limit

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1 per speaker tonight. We do have a rather full agenda. We're wondering if we're going to get  
2 through it so I am going to ask our speakers to limit themselves tonight to 3-minutes. Do we  
3 have speakers for Oral Communications, Mr. Nguyen?  
4

5 Mr. Vinh Nguyen, Admin Associate III: Yes. It looks like we have one hand raised. Thank you for  
6 the timer. Our speaker is Rebecca.  
7

8 Ms. Rebecca Eisenberg: Hi. Thank you so much. I appreciate the time to address you this  
9 evening as always. I did want to point out to you all that as you just learned, the interviews for  
10 the Planning Commissioners, which I'm... which I have applied to again, are scheduled for  
11 tonight and there was no opportunity to schedule it any other time than at a time that conflicts  
12 with this meeting. So, I sent you all an email asking for corporation in just allowing me to speak  
13 on the two items. Especially, Agenda Item Number Two which is about permanently converting  
14 a portion of Town and Country away from retail. Prohibiting retail permanently [unintelligible]  
15 Town and Country. I very much want to speak to that if you could accommodate my schedule. If  
16 I'm interviewing at that time I would greatly appreciate it.  
17

18 I also just want to take this opportunity as always to point out that conflicts of interest can  
19 really inhibit a body of decision-makers from making a decision that is in the community's best  
20 interest. And to the extent that there is even a potential conflict of interest, I ask you all again  
21 politely to kindly disclose any potential conflict. Disclosing a conflict does not require you to  
22 recuse yourself. It just acts in a way that is transparent with the goals and ideals of  
23 accountability and transparency. It is helpful to the community to know if there's a potential  
24 conflict, not just an actual one, and then you all can make your own decisions about whether  
25 you need to recuse yourself. Because I really think that it's a very good practice to do what's  
26 better than the minimum requirements of the law. Here in Palo Alto, we all moved here  
27 because we sought excellence and I think we deserve excellence in governance too and I have  
28 to believe you agree with me.  
29

30 Finally, I do want to point out, as you all are aware, is that every law, no matter what location  
31 whether it's for a City, a county, a state, or a country. Every law has one fundamental  
32 requirement behind it and any change to the law and that is that it must serve a public interest.  
33 Usually a compelling public interest, but I would be pleased if you could look at tonight's and  
34 other agenda items from the perspective of does this serve a public interest or is it mainly more  
35 of a private interest? I have to think that's what you're thinking anyway so I thank you in  
36 advance for considering that. Thank you.  
37

38 Chair Hechtman: Thank you, Ms. Eisenberg. Mr. Nguyen are there any other members of the  
39 public who wish to speak during Oral Communication?  
40

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1 Mr. Nguyen: There are no additional public speakers for this item.

2

3 Chair Hechtman: Alright, so a couple items before I move to Agenda Changes. First of all, Ms.  
4 Eisenberg, I do intent to accommodate your schedule. I appreciate anybody desiring and  
5 attempting to be of public service to the City of Palo Alto and so we'll make sure that you are  
6 able to have public comment in both of the agenda items tonight.

7

8 The second thing I wanted to mention to the members of the public that are here tonight and it  
9 looks like there are 10 attendees right now. At the end of the meeting, after Agenda Item  
10 Three, the Commission is going to have a short discussion on basically our Zoom meetings to  
11 provide feedback, how we think it's going, what might be able to be improved, and we're very  
12 interested also in hearing from the public about your experience and whether we can do things  
13 to improve it. For example, tonight we daylighted for the first time a pre-recorded introduction  
14 with the instructions. So, what I'm going to ask the members of the public to do if you're willing  
15 to after you sign off tonight whenever that is if you would just take a couple minutes and send  
16 the Planning Commission a short email with any comments or constructive criticism you have  
17 about our Zoom meetings. How they work technologically, we would appreciate that.

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

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

20 Chair Hechtman: Then now I'll move to Agenda Changes, Additions and Deletions. Are there  
21 any that any of the Commissioners or Staff wish to raise?

22

23 Ms. Rachael Tanner, Assistant Director: Staff don't have any agenda change or deletions but I  
24 do want to note for the public and also for the members of the body that Commissioner  
25 Summa will also have an interview later on this evening. And so, depending... I think it's  
26 scheduled for 9:25 or 30?

27

28 Commissioner Summa: It's been changed to 8:55.

29

30 Ms. Tanner: 8:55, ok so (interrupted)

31

32 Commissioner Summa: I want a few minutes before that so I can prep.

33

34 Ms. Tanner: Compose yourself and switch gears.

35

36 Commissioner Summa: Well, mainly just to make sure my link is working and stuff.

37

38 Ms. Tanner: So, I think we had discussed Chair, that we may, depending on if that actually  
39 happens, and by I mean at 8:55 it's ready to go or a little bit before. It may be also a good time  
40 for a break. We'll have been meeting for nearly 3-hours by that time and so that may be a time

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1 to pause, have a break and reconvene the meeting. We don't know what agenda item we'll be  
2 on or where we'll be exactly but that might be something we want to do.

3  
4 Chair Hechtman: And normally I'm going try to give us a break around 8 o'clock but if the other  
5 Commissioners are agreeable, I would like to break when Commissioner Summa departs for her  
6 interview. And I would like a longer than normal break because particularly I expect by then  
7 we'll be in Agenda Item Number Three where we are going to have a series of discrete  
8 discussions and so being away for 20-25 minutes, she could miss an entire discussion. I don't  
9 want that to happen so we're going to take an unusually long break. Again, because we have  
10 people aspiring and in Commissioner Summa's case, to continue her valuable public service. So,  
11 that is the intention tonight unless and if... I would say that if any of the Commissioners need a  
12 break before roughly 8:50, just let me know.

13  
14 Ms. Tanner: And then when Commissioner Lauing arrives we'll just read him into the roll that  
15 he has arrived and make sure that he's marked as present for the meeting which he will  
16 hopefully arrive soon.

## 17 **City Official Reports**

18 1. Directors Report, Meeting Schedule and Assignments

19 Chair Hechtman: Alright, let's move to City Official Reports.

20  
21 Ms. Rachael Tanner, Assistant Director: Thank you. Good evening Chair, Members of the  
22 Commission, members of the public. A couple announcements to make, coming up next week  
23 we have a webinar about affordable housing. It is in partnership with Alta Housing, our  
24 longtime partner in providing affordable housing in Palo Alto. Really helping folks understand  
25 how they can qualify and apply and secure an affordable unit here in Palo Alto. So, that is  
26 February 18<sup>th</sup> at 6:00 p.m. It is a virtual webinar as you probably assumed. We'll send the  
27 information to all the Commissioners if you have others you'd want to get it out to, but we are  
28 publicizing that on the City's website and social media channels. And we're really excited to be  
29 presenting that and it will be recorded. And the City has a new website, which is actually in beta  
30 testing, [beta.cityofpaloalto.org](http://beta.cityofpaloalto.org), and one feature we're getting together on the new site is a  
31 renter portal that will have information for folks around renting, housing and so webinars like  
32 this and others will be there kind of in a cache. So, folks can watch those later on if they're not  
33 able to make the actual event, but we're very excited to be presenting that in partnership with  
34 others.

35  
36 We also will be releasing this week, I believe tomorrow, applications for our Housing Element  
37 Working Group. And so again, we'll be pushing that out to our Commissioners and others  
38 hoping that you'll share it with other folks that you know who might be great to serve on the  
39 Committee that will help put together our Housing Element. And as you know, the Housing

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1 Element covers an 8-year period starting in 2023 to 2031. Figuring out where our allocated  
2 units which is about 6,000 units to Palo Alto, where those can go, where the housing  
3 opportunities site, other policies that can accompany that. So, it's certainly a big puzzle to fit  
4 together. We want to make sure we have a really diverse representation on this body. We're  
5 thinking it may be approximately 15 members and even within that 15 members, we're like oh  
6 if it was 25 we could have everybody, but we're looking for folks who have experience in  
7 housing as affordable housing developers, market-rate developers, members of our community  
8 including parents. We want folks who are part of underrepresented communities, folks who  
9 maybe were previously unhoused or unhouses currently or were in that population. We want  
10 young people as well, renters, and really make sure that we have... institutional members as  
11 well who really represent the diversity of Palo Alto in informing the Housing Element update  
12 which is very important. So, that application will be out tomorrow and then applications are  
13 due on March 5<sup>th</sup>. Ultimately City Council will be deciding who the members are when it be of  
14 that body so we're looking forward to that group being formed.

15  
16 And lastly... well, two last things, we have the Human Relations Commission tomorrow is having  
17 a presentation from Lauren Bigalow, our Challenge Grant Fellow, and you may remember she  
18 was with us last year presenting on renter protections. They heard about it, wanted her to do  
19 an on-core presentation and so she is joining them talking about the information she shared  
20 about who renters are in Palo Alto and how we can think about addressing their needs. She will  
21 be back before us this spring, we believe at the end of April, to present more to the PTC  
22 regarding what kind of policies we can enact as a City that would help our renters and look  
23 forward to PTC giving us feedback and then going to Council with some of those policy ideas.

24  
25 Lastly, just a reminder that the Uplift Local Streets have returned and are returning. So,  
26 California Avenue has been closed to vehicle traffic. If you'd like to go there to dine, to  
27 patronize our small businesses, really encourage you to shop locally and enjoy a safe  
28 atmosphere where you can enjoy outdoor dining. You can see some folks have tents and other  
29 things. So even if the weather is not great on a given evening or afternoon. Some coverage for  
30 you there and this Friday we will be returning the downtown Uplift Local Streets so portions of  
31 University Avenue will be closed to traffic as well as one-half block of Ramona. So again, a great  
32 opportunity to stroll, to people watch, to again patronize our local businesses who continue to  
33 struggle with the pandemic.

34  
35 And we hope that you all are staying safe. I know it can be very tiring, but also know that there  
36 is testing here locally as well at the Art Center every other Friday and it's an opportunity for  
37 Palo Alto residents, employees and their families to get tested. Just to make sure if you think  
38 you may have been exposed or concerned, please avail yourself of that service. You do need an  
39 appointment which you can do online, but you don't necessarily need to have a doctor's  
40 referral or anything like that to take advantage of that testing.

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1  
2 So, those are the updates I have for you but happy to take any questions about those  
3 comments or others that the Commissioners may have.

4  
5 Chair Hechtman: Thank you, Ms. Tanner. Are there any questions from the Commission? Well,  
6 seeing none I will move us to action items.

7 **Action Items**

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

10

11 2. 855 El Camino Real (20PLN-00252): Recommendation on Applicant's Request to  
12 Amend the Palo Alto Municipal Code to Allow up to 20% of the Ground Floor Space  
13 at Town & Country Village to be Medical Office Use. Environmental Assessment:  
14 Exempt From the Provisions of the California Environmental Quality Act (CEQA) in  
15 Accordance With Guideline Section 15301 (Existing Facilities). Zoning District: CC  
16 (Community Commercial). For More Information Contact the Project Planner, Claire  
17 Raybould at [Claire.Raybould@cityofpalalto.org](mailto:Claire.Raybould@cityofpalalto.org)

18 Chair Hechtman: And we will start tonight with Item Number Two on our Agenda; 855 El  
19 Camino Real. Its filed 20PLN-00252. Recommendation on applicant's request to amend the Palo  
20 Alto Municipal Code to allow up to 20% of the ground floor space at Town & Country Village to  
21 be medical office use. Do we have any disclosures that any of the Commissioners need to  
22 make? Seeing none, Ms. Tanner I think we will start by having you introduce the Staff  
23 presenter.

24

25 Ms. Rachael Tanner, Assistant Director: Great. Thank you, Chair Hechtman, Commissioners. We  
26 have Claire Raybould, one of our superstar planners here with us this evening presenting this  
27 project. And she will... as we noted in the Staff report and she will note, this really is a response  
28 to the pandemic in terms of what is happening in our local retail space and certainly part of the  
29 trends that have been building for the last few decades. So, we do hope that you'll take this  
30 into account but also weighing that this is a long-term change that you're making and so  
31 certainly having to weigh kind of long-term trends, the immediate moment and the future of  
32 Town and Country and our retail environment. So, Ms. Raybould, if you are ready, we see your  
33 screen if you want to put it into presenter mode. We are ready to have your presentation and  
34 then we do have Jim Ellis from Town and Country who also has a presentation.

35

36 Ms. Claire Raybould, Planner: Thank you so much. I'm sorry I'm having some difficulties  
37 changing it. It doesn't seem to be working. Are you able to see that now?

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1  
2 Ms. Tanner: We do see it. It's in... not in presenter mode. If you want Vinh to share it, he can  
3 probably do it or if it's visible to the Commissioners we can have you use this format.  
4

5 Ms. Raybould: Yeah, I'm not sure. It's showing as presenting on mine so I might need to have  
6 Vinh share it if that's ok, Vinh?  
7

8 Mr. Vinh Nguyen, Admin Associate III: Sure. Just give me about 30-seconds, I have it on my  
9 desktop here.  
10

11 Ms. Raybould: Thank you. Sorry about that.  
12

13 Ms. Tanner: Great, thanks. It happens.  
14

15 Ms. Raybould: I'm not sure what's happening.  
16

17 Ms. Tanner: Somehow our computers I think they get updated and they change their settings or  
18 something from meeting to meeting. That somehow, they're not the same as from one to the  
19 other.  
20

21 Mr. Nguyen: Claire, I'm going to end your screen share now, ok?  
22

23 Ms. Raybould: yeah, great.  
24

25 Ms. Tanner: And I do want to note Commissioner Lauing has joined us. Good evening. Thank  
26 you for being here and so we'll mark that you are present for this meeting.  
27

28 Ms. Raybould: Alright, so welcome Commissioners and Chair Hechtman. I'm Claire Raybould,  
29 Senior Planner and the project before you tonight is Town and Country Village. If you could just  
30 go to the next slide, Vinh. So, the project is located at the corner of Embarcadero Road and El  
31 Camino Real. And I wanted to start off the presentation with a bit of background on why this  
32 project is coming before you tonight. As I'm sure many of you are aware, the City is  
33 experiencing a lot of vacancies Citywide from ground floor retail due in part to... in large part to  
34 the pandemic that's ongoing. And the project before you is representative of some of what  
35 Council is interested in asking Staff to explore for COVID relief for retail businesses and that  
36 discussion was really started in November at the last Council hearing in November where they  
37 directed Staff to explore some ideas of COVID relief. Including allowing some medical office  
38 uses on the ground floor in various locations Citywide. So, the City is working on that on a  
39 Citywide level or Staff is working that on a Citywide level and we do plan on coming back to the  
40 Planning Commission hopefully sometimes in April to explore some of the other areas where it

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1 may be appropriate to allow medical office uses. However, the applicant, LS Partners, has come  
2 to the City with a specific Zoning Amendment request due based on their thought process was  
3 that the Citywide approach is really going to take some time to explore what's appropriate for  
4 the site for various locations. And they are really experiencing pretty high vacancy rates at their  
5 property right now. Just in the last, it's increased by another four percent but they are currently  
6 at 22 percent vacancy which is well over the... their vacancy rates that they had during the last  
7 pandemic which I think was about seven to eight percent. So, that's just a little bit of  
8 background on kind of why this project is coming before you tonight as a site-specific project.  
9 Can you do to the next slide Vinh?

10

11 So, with that, the applicant is proposing amendments to Palo Alto Municipal Code. Specifically,  
12 Chapters 18.16 and Chapters 18.40 to allow up to 20 percent of the ground floor at the site,  
13 which is equivalent to 30,050 square feet, to be converted from retail and retail-like uses and  
14 replace those with medical office uses. Next slide.

15

16 The relevant code sections that are before you tonight are 18.16.050 which currently restricts  
17 the conversion of ground floor non-office commercial uses to medical office or other office uses  
18 as well as Section 18.16.060 which limits the percentage of square footage of office space at  
19 Town and Country Village specifically currently to 15 percent of the total floor area of the  
20 shopping center. And then Chapter 18.40 of our code is our Retail Preservation Ordinance  
21 which prohibits the conversion of any ground floor retail and retail like uses to non-retail and  
22 non-retail like uses which would include currently medical office uses. Next slide.

23

24 The key input that we are requesting from the PTC tonight is understanding your interest in  
25 allowing the proposed medical office use on the ground floor at Town and Country Village. And  
26 if the Planning Commission is interested in that, understanding what your recommendation  
27 would be on the total allowable office square footage at the site and the total medical office  
28 square footage on the ground floor. Other considerations on limitations on the medical office  
29 such as if you want to restrict the size to 5,000 square feet or anything less to of medical office  
30 space if we are going to allow it. Next slide.

31

32 The recommended motion, the Staff is recommending that the PTC recommend to City Council  
33 to adopt the ordinance in Attachment Boulevard of the Packet, which amends Chapter 18.16  
34 and Chapter 18.40 of the Municipal Code to allow up to 15 percent of the ground floor area at  
35 Town and Country Village to be converted from a retail or retail-like use to a medical office use  
36 and no more than 25 percent of the total floor area of the site be used for office. And I just  
37 wanted to note that Staff's recommendation does differ from the applicant's request which  
38 would allow up to 20 percent of the ground floor area to be converted to a medical office us  
39 and no more than 30 percent of the site to be used for office use.

40

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1 And with that, I will turn it back to you and recommend that you hear from the applicant.

2

3 Chair Hechtman: Thank you, Ms. Raybould. Before we do that, I want to find out if any of the  
4 Commissioners have questions of Staff that should be daylighted now instead of during the  
5 deliberation? I am... Commissioner Summa.

6

7 Commissioner Summa: Thank you so much. I was wondering if Staff is collecting vacancies in all  
8 commercial sectors for the broader discussion of vacancies they expect in April?

9

10 Ms. Tanner: Thank you, Commissioner. We have a couple sources of data. They're not... none of  
11 them are perfect, so one is an online data source called CoStar and that sources its vacancy  
12 data based on broker's listings of commercial spaces. So, if a space is empty but not listed on  
13 that site for rent, it wouldn't capture that, and it does lag a little bit as it collects the data but  
14 that's one indicator that we have. And then in our downtown and Cal Ave where we have our  
15 Uplift Local Streets, we've been collecting a database of closed stores fronts and stores that  
16 aren't operating anymore; in addition to Ms. Raybould's work to contact some of our shopping  
17 centers to understand what is happening at other shopping centers and where they feel their  
18 vacancy is to the degree that they're willing to share the information.

19

20 Commissioner Summa: And do we have information on commercial office or medical office  
21 vacancy? How extensive (interrupted)

22

23 Ms. Tanner: I would need to look at the CoStar to see how much it breaks down the commercial  
24 vacancy between the different types of vacancies between retail and then office and medical.  
25 So, I don't have that handy and I'm not sure if it goes to that level of detail but I can take a look  
26 at that.

27

28 Commissioner Summa: I didn't expect it for today. I was wondering if we would get it in April  
29 and then maybe Staff, if the Chair allows, maybe Staff... we had one letter from a member of  
30 the public that felt that this did qualify for CEQA. Could Staff address that?

31

32 Ms. Tanner: Certainly. Ms. Raybould, did you want to address that?

33

34 Ms. Raybould: Sure, I'm happy too. Well, I think it might be better for our attorney to address it  
35 actually if that's ok?

36

37 Ms. Tanner: Yeah, certainly.

38

39 Mr. Albert Yang, Assistant City Attorney: Sure, that's no problem. So, in Staff's analysis, the  
40 exemption is properly applied here. From an environmental perspective, we view this as

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1 basically as mixed-use commercial... mix commercial development that's just slightly changing  
2 its mix of uses. And we don't expect that mix of uses to have any impact on any of the issues  
3 that CEQA is concerned with. In some ways I think we actually expect there to be lower impacts  
4 with the amount of office use than with retail.

5  
6 Commissioner Summa: Thank you.

7  
8 Chair Hechtman: Commissioner Alcheck.

9  
10 Commissioner Alcheck: Thank you, Chair. So, would Staff help me identify the date the  
11 applicant applied for this request?

12  
13 Ms. Raybould: I would have to check. I believe that this came in... gosh, in November maybe?  
14 End of November.

15  
16 Chair Hechtman: November 17<sup>th</sup> is the date of the letter in our file.

17  
18 Ms. Raybould: I think it technically came in just after that.

19  
20 Commissioner Alcheck: And are... was... in the setup I just want to understand, is this the... is it  
21 Staff's intention that to suggest that Council had begun considering how to address some of the  
22 business issues in the community and then this letter came after; or did this letter proceed the  
23 comment you made in your setup about how Council wanted to explore how to... I'm going to...  
24 I don't want to paraphrase. But you said something about Council wanted to explore addressing  
25 some of the challenges in the community as it relates to the COVID crisis. Did that pre-date this  
26 request?

27  
28 Ms. Raybould: No, so there was a pre-application that was filed for a Council hearing and so  
29 that was specifically outlined in the Council's Staff report for that November hearing. There was  
30 an expectation that if there was discussion and if Council had an interest in medical officer uses.  
31 That we would consider that to be the Council pre-screening for this project. So, Council was  
32 very much aware that there was an interest in this site specifically for medical office use on the  
33 ground floor. That pre-application or the pre-screening was waived because we considered that  
34 Council hearing to be the pre-screening on the project. Does that answer your question?

35  
36 Commissioner Alcheck: Yeah, I'm trying to understand if Council's... so I'm familiar with the  
37 effort by Council... I'm sorry Chair. I'm familiar with the effort by Council to explore avenues by  
38 which they can make... they can essentially support local businesses during COVID. For example,  
39 closing streets down for restaurants to use their outdoor spaces. Was there a component of  
40 Council's visions that they would also consider use changes in this grand scheme, or did this

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1 application come in, they reviewed it in the form of this pre-screening hearing that you're  
2 talking about, and they decided to add it to this general concept? That's what... I'm trying to  
3 understand what came first, the request or the idea?  
4

5 Ms. Tanner: So, I'll take that Ms. Raybould. So, certainly part of our approach and approach that  
6 the City is exploring is not just the immediate vacancy, but really the long-term recovery. Even  
7 though the pandemic isn't over, we're thinking about what is it going to take for the vacant  
8 spaces we're seeing to become activated again? And we're looking at a number of things  
9 including an ordinance that Council will be hearing I think 2 weeks from now at the 22<sup>nd</sup>  
10 meeting of February regarding some definition changes. To make it easier for example, for an  
11 ice cream parlor to not have the same parking standards as a full-service restaurant. So, those  
12 are some of the types of code-level changes that we are looking at as a City. Ranging from that,  
13 smaller maybe more minuet change to larger changes which Ms. Raybould kind of eluded to  
14 which is thinking about our retail district and our shopping district and shopping centers and  
15 understanding are the controls governing what uses can be there appropriate for the future of  
16 our retail and our shopping? And one of those considerations is what is the role of medical  
17 office that... what roll does it play in a vibrant mixed-use shopping district and what are the size  
18 components of that and when... where is it appropriate?  
19

20 And so, I think part of what is bringing this before perhaps the holistic comprehensive view is  
21 that Town and Country has its own regulations governing on what can happen at that shopping  
22 center and so this is certainly only one use that is being suggested to be changed there. We're  
23 not considering other types of uses that are not allowed. Not precluding that maybe the  
24 sponsors could speak to if there are other types of uses they envision being part of the good  
25 mix in the future but certainly, this is specific to that site and this specific type of use.  
26

27 Chair Hechtman: Alright, thank you. Seeing no more Commissioner hands, I'm going to open up  
28 the public hearing and I'd like to start with the applicant. Mr. Ellis?  
29

30 Mr. Jim Ellis: Thank you.  
31

32 Chair Hechtman: You have... according to our agenda you have up to 15-minutes. Welcome.  
33

34 Mr. Ellis: Thank you. Thank you very much and thank you for having me and thank you  
35 Commissioner and Staff members. I'd like to make an initial request. I have a co-presenter that  
36 doesn't appear to be on the panelist list. Dean Rubinson, [Dean@Ellispartners.com](mailto:Dean@Ellispartners.com). Is there a  
37 way to invite him in?  
38

39 Ms. Tanner: I believe he's been added. Mr. Rubinson, are you... there you are.  
40

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1 Mr. Dean Rubinson: I'm here. Yeah, thank you Claire for the help there. I appreciate it.

2

3 Mr. Ellis: Thank you and Dean, I think you're going to be the presenter, correct?

4

5 Mr. Rubinson: I'm happy to share my screen so let me pull up my deck here and then I will  
6 share my screen. Alright, can you guys see a beautiful sunny day at Town and Country? Alright.

7

8 Ms. Tanner: Yes, we can see it. Thank you.

9

10 Mr. Ellis: Excellent. Well, thank you, everyone. This is certainly a hot topic to talk about at Town  
11 and Country. I'll just say some opening comments here. I... you know retail was going through a  
12 catharsis prior to COVID and COVID has really only accelerated those trends that we were  
13 monitoring prior. So, you... I don't know that I... how much I need to connect the dots for you  
14 but there has been upheaval going on in our industry and we have companies like Amazon, the  
15 online shopping explosion, and many other factors that have disrupted retail. Town and  
16 Country has been particularly impacted from this rapid evolution in retail, in that it... we have  
17 been very careful over our history of owning this property to create a curated merchandising  
18 mix of tenants that are largely local or regional versus what you might see at a typical shopping  
19 center of national retailers. So, we have been hit particularly hard.

20

21 You have heard about our vacancy statistics and you might want to move on to the next slide.  
22 This kind of tells the story so far, unfortunately, it's getting worse. A lot... we've lost a lot of  
23 smaller tenants in our center, many of them apparel retailers and the forces that worked before  
24 COVID have really kind of put the final nail in the coffin for many of the retailers. They are  
25 smaller, more locally-focused apparel retailers and they've literally been put out of business by  
26 online sales and online shopping. And you guys... as you all know; online shopping has exploded  
27 during the pandemic and has made a bad problem fatal for many of these retailers. You'll see  
28 that our vacancy rates which have been relatively stables for a decade shot way up in late '20  
29 and '21 and based on my latest read of our tenant discussions. The vacancy rate now I think is  
30 at about 21 and change percent and unfortunately, we're monitoring another 11 percent of  
31 potential additional vacancy in the center. Resulting from a combination of the factors I  
32 mentioned prior to COVID and then of course the impacts of COVID occurring.

33

34 So, we very much appreciate the City for several months not taking into consideration our  
35 desire to try to bring Palo Alto's zoning restrictions for our property up to current best practices  
36 for retail mixed-use shopping centers which many other Cities have adopted. And this site plan  
37 of our property shows the extent in which we have vacancy and you can see many of them are  
38 smaller tenants that are really struggling. And I can honestly tell you because I live it every day,  
39 we're doing everything we can to keep these tenants in business. We have written off millions  
40 of dollars of rent. We're not expecting that these tenants have to pay us everything that they

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1 are contractually required to pay us. We are working with them where ever we can. In many  
2 cases tenants aren't even paying minimum rent and, in many cases, they have closed anyway  
3 because even if they pay no rent at all. They still can't make their business work. So, we threw  
4 this slide up just to demonstrate the shocking turn of events for this previously vibrant and very  
5 successful community asset.

6  
7 I think the other thing, and Dean's going to pick up here shortly in terms of getting into the  
8 proposed Zoning Text change, but I really want to make clear that we really are trying to ask for  
9 as little as possible to try to mitigate this vacancy surge we have. And in some ways, as I've said  
10 before, it's been a long time coming but remember that our main motivator here is that any  
11 center like this that starts experiencing a high vacancy rate. Then start seeing a precipitates fall  
12 off in foot traffic and visitation. It is... our industry it is what we call a death spiral and the less  
13 foot traffic you get the lower the retail sales for the whole center, the more businesses that  
14 can't make it, the more they close. We are not trying to ask the City for medical office use so  
15 that we can slam in a bunch of typical office... typical hospital-like doctors. We are trying to  
16 introduce to our merchandising mix what other best practice shopping centers have done  
17 which is... and we have a list of them Dean I think on another page here, don't we?

18

19 Mr. Rubinson: I will... hang on one sec.

20

21 Mr. Ellis: Sorry, I'm jumping around a little bit.

22

23 Mr. Rubinson: That's ok.

24

25 Mr. Ellis: This just tells the quick story that these are retail-oriented medical office uses that  
26 provide convenience for Palo Altans, that are an important service, and most importantly for  
27 us, they provide foot traffic. And they provide occupied storefronts and they, for us, are one of  
28 the keys for avoiding what otherwise is a very dire situation. And I know we're limited on time  
29 so Dean, I'll it over to you. Thank you.

30

31 Mr. Rubinson: Alright, thank you, Jim. So, as Jim mentioned we are doing everything we can  
32 here and I want to stress we've been curators of Town and Country. Jim and I have spent  
33 probably a day or two a week or if not more for 15 years to take this property from where it  
34 was in 2004. I managed the renovation, Jim's been managing the leasing every day since we've  
35 owned it. So, we care very much about this shopping center, this treasured asset, and our  
36 request here is in the spirit of trying to maintain its vibrancy for the community and we would  
37 continue to curate the merchandising mix as Jim mentioned.

38

39 So, the request here was to allow us up to 20 percent of the ground floor for medical office  
40 uses which are currently not allowed. We are allowed up to 15 percent office on the total site

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1 and as Jim mentioned, the medical office world in retail is growing. We are struggling in many  
2 ways and we think the medical office will be able to help plug the voids here in significant ways.  
3 So, essentially if we're granted what we're asking it would be up to 30,000 feet on the ground  
4 floor which by virtue of the added office on the ground floor, would naturally require us to  
5 increase the overall site-wide percentage from 15 to 30. Discussions with Claire over the last  
6 couple of weeks and reading the Staff report, we would obviously prefer to have the request be  
7 granted if the Commission sees fit. It is in compliance and consistent with the Comprehensive  
8 Plan and it is certainly in... it is consistent with what the City Council on the November 9<sup>th</sup>  
9 meeting asked Staff to explore. But if you see that the request is somewhat more than what  
10 you're comfortable with, we are willing to accept what has been recommended by Staff, of the  
11 15 percent of the ground floor and 25 percent office overall. Including the 5,000 square foot  
12 per tenant cap. We think that that is an acceptable compromise. We think that it maintains our  
13 ability to lease the second-floor office space to traditional office and does not impair our ability  
14 to find that balance.

15  
16 As Jim mentioned, these would be very much retail-focused users. I'll mention that Town and  
17 Country is different than many other shopping... many other retail districts around Palo Alto.  
18 Different than Cal Ave and University. It is set back from the sidewalk so it is sort of its own  
19 community to itself but I know that ground-floor retail converting to office is something that is  
20 not looked upon favorably. Especially along places like California Avenue but here, our property  
21 is set back from the street, we have a large parking area, so it is a bit of a different setting than I  
22 think the Retail Preservation Ordinance was drafted for.

23  
24 In terms of potential impacts to the City, we were asked to try to come up with some rough  
25 projection because we recognize that retail Sales Tax would be eliminated if we were allowed  
26 to put in medical office use. I'll stress that vacant retail pays no Sales Tax and provides no foot  
27 traffic. So, given the choices here, we certainly think putting medical office, even if it doesn't  
28 provide a Sales Tax contribution, will be the best solution to allow the current retailers to  
29 survive and avoid the death spiral that Jim mentioned. We think that medical office would  
30 supplement the lost Sales Tax by virtue of creating that foot traffic and boosting the Sales Tax  
31 revenue at the remaining retailers. So, our projection is based upon the available data where  
32 that this approval, if it was all of the 30,000 feet leased to medical office, would be  
33 approximately \$78,000 a year at the worst case, which is about 12 percent of our Sale Tax, less  
34 than 1 percent of the City's Sale Tax overall, and that would be if everything was leased. As I  
35 mentioned we think that allowing us to have the medical office use could potentially recover  
36 potentially all of that 78,000 square foot... \$78,000 if the existing retailers, including Trader  
37 Joe's and CVS, which would clearly benefit from medical office uses there. If you dropped your  
38 child off for an orthodontist visit, more than likely well you have an hour, you'll run into Trader  
39 Joe's. If you're going to a doctor's office, one medical, and you want to pick up a prescription,

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1 more than likely you'll go to CVS. So, there would be a counter-acting boost in retail Sales Tax if  
2 the medical office use was allowed.

3  
4 So, that is essentially what we're asking for. I want to thank Claire. She's been incredible to  
5 work within this process and this was something that was precipitated in part by the City  
6 Council's discussion in November. Jim actively participated in those discussions but I want to  
7 stress that it's important that this is done urgently and this is done independently of a much  
8 broader and potentially slower Citywide effort. So, thank you, we appreciate your time.

9  
10 Chair Hechtman: Thank you, Mr. Ellis and Mr. Rubinson. Are there Commissioner questions  
11 before we move to the public? Commissioner questions of the applicant? I am seeing none and  
12 so we will move to the public comment. Mr. Nguyen, do we have members of the public? I  
13 know there's at least one that would like to speak on this item tonight.

14  
15 Mr. Nguyen: Yes. It looks like we have just one. Ok, thank you for the timer. Our first speaker  
16 here will be Rebecca.

17  
18 Ms. Rebecca Eisenberg: Thank you so much. The reason I'm the only speaker here tonight is  
19 because the City has not put on notice any of the organizations that are temporarily shut down.  
20 That are going to reopen soon. Such as Palo Alto High School which soon will have 2,000  
21 students back as early as March or the 500... and the 500 teachers and Staff who also work at  
22 Pally, or the additional 300 administrators that work next door to Pally at the Palo Alto  
23 University School District main office. The City didn't bother speaking to Stanford. As you know,  
24 Stanford's 20,000 students are temporarily not in classes and most of Stanford's 15,000  
25 professors and Staff and other employees are also not working. Let's be honest, Stanford is  
26 going to restart as is Palo Alto School District and Pally High School where my son attends.  
27 When Stanford restarts and when Pally reopens, the retail business will pick up again.

28  
29 According to the chart given by Ellis Partners, the average vacancy over the past decade has  
30 been about 5 percent and it has been even almost 10 percent in the past. Right now, their  
31 vacancy during the pandemic is 18 percent. Meaning it's taken approximately a 10 percent hit  
32 which is much less than the hit that these small businesses have taken. The City has in its  
33 direct... in multiple reports, the City has stated a need to support small businesses. Here taking  
34 away their retail opportunity and retail rent is the opposite of supporting small businesses and  
35 doing so permanently when Pally is set to open as early as next month is posteriors. It is  
36 underheard of. It is insane.

37  
38 Ellis Partners has said that it has tried everything to fill these vacancies, but has it tried lowering  
39 its rents? Because the City report didn't include any conversations with any of the many  
40 businesses that have been forced out of Town and Country. These beloved local businesses like

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1 Mayfield Café left because they couldn't afford their rents and the landlord would not  
2 accommodate them any longer.

3  
4 Prices are determined by supply and demand. Ellis Partners should be subject to those same  
5 laws. When demand is lower, they need to lower their prices. They don't need a permanent  
6 change to the law. If this was the right thing to do, which it's not, it is definitely too early. Say  
7 no, thank you.

8  
9 Chair Hechtman: Thank you, Ms. Eisenberg. Are there additional public speakers for this item?

10  
11 Mr. Nguyen: We have no more raised hands so that concludes public comments for this item.

12  
13 Chair Hechtman: Thank you. We will close the public hearing then and we will turn to  
14 Commission deliberation. Commissioners, who would like to speak first?

15  
16 Mr. Yang: I'm sorry Chair. We should return to Ellis Partners, give them a chance for a rebuttal;  
17 3 minutes.

18  
19 Chair Hechtman: Thank you, Mr. Yang. Yes, so Mr. Rubinson, sorry, and Mr. Ellis, you have up  
20 to... let's see.

21  
22 Mr. Yang: 3 minutes.

23  
24 Chair Hechtman: A 3-minute rebuttal if you'd like to use it.

25  
26 Mr. Ellis: Thank you. I feel as though the public comment didn't take into account the discussion  
27 we've been having in this presentation. As she points out items like these schools being closed,  
28 Town and Country Village does not survive off of high school students and college students who  
29 are more focused on their education rather than spending money other than maybe than an  
30 occasional lunch. Our target customer as is the case with most shopping centers like this are a  
31 very different demographic than a student. So, the impacts to our center are very really, they  
32 are long-term impacts, not just associated with COVID, and we... I don't know how much lower  
33 on rent than zero we can go with some of the tenants we've been trying to work with. So, I  
34 just... look, I know it puts everyone in an argumentative mode but we care very much about this  
35 property. And we have been in constant contact in a proactive nature with every tenant to try  
36 to help them and work with them as best we can within reason. Dean?

37  
38 Mr. Rubinson: Yeah, I would agree Jim and I'm there all the time when the Pally kids are there.  
39 You can sort of... it's almost like a flock of locusts coming in and the tenants that they go to are  
40 essentially not impacted by this. Most of those are Trader Joe's, Kirks. I mean they're impacted

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1 but none of those are the ones that have gone vacant. It's mostly the boutiques, the other  
2 specialty retailers that Jim mentioned that serve the homeowners through Palo Alto and  
3 especially in the immediate area. And we care very deeply about our tenants and we probably  
4 unlike other national landlords have bent over backward to try to keep them there. And at  
5 some point, they tell us that even if they pay nothing in rent, if nobody is coming to buy their  
6 stuff, they can't pay their Staff. So, we've done everything we possibly can here so.

7  
8 Mr. Ellis: Yeah and it's... as I mentioned earlier, we have far more small business tenants than  
9 other shopping centers in Palo Alto. That's the way we wanted it and if we don't have code  
10 tenancy and we don't have vibrancy. Those small businesses are going to fail, regardless of how  
11 much rent they're paying us. So, we would very much like to be enabled to mitigate this both  
12 long- and short-term problem we're confronted with. Thank you.

13  
14 Chair Hechtman: Thank you and thanks for the heads-up, Mr. Yang. I will not close the public  
15 hearing and turn to my fellow Commissioners. Commissioner Lauing.

16  
17 Commissioner Lauing: Yes, thanks. I'd like to start with a couple of questions for Staff and I have  
18 a number of questions for the applicant. So, I don't know how you'd like to handle this Chair  
19 Hechtman? If you want that, everybody to ask questions of Staff and then of the applicant but I  
20 can just start with Staff if you'd like.

21  
22 Chair Hechtman: Sure. Why not start... do that and then we'll take the next step.

23  
24 Commissioner Lauing: Ok, ok. So, I've listened to the original meetings live in September and in  
25 November to really understand what our assignment is. I went back in the last three days and  
26 spent a lot of time relistening to those and I'm trying to figure out if we're all on the same page  
27 in terms of what our assignment is.

28  
29 Certainly, Staff... I'm sorry, certainly, Council was quite enthusiastic about taking this to PTC to  
30 be worked. Council Member Kniss for example said that PTC is... this is exactly the place it  
31 should go and they have the time to work through these things; obviously, in contrast to  
32 Council. It was a 7-0 vote to bring this back, the emphasis being on enabling diverse retail uses  
33 in food, medical, and education.

34  
35 Then there was a 4-3 vote that was separated that was about the definition of retail and retail-  
36 like so we could sort out what's retail-like as opposed to retail. So, I just... I'm just wondering  
37 with that directive, why we're doing this kind of piece mill? Why it's not more strategic? We're  
38 talking about one of the categories we were assigned for one shopping center. And certainly,  
39 other landlords are going to want the same thing so it becomes precedent-setting because  
40 they've got a lot of vacancies as well. So, I'm just wondering why we're doing it this way instead

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1 of taking all three of those things and putting in the right amount of time on it to opine on at  
2 least the food, medical and educational sections; which is when I watched the meetings what I  
3 was expecting? So, I would ask that of Staff.

4  
5 Ms. Tanner: Certainly. Well, the first response is that applicants and owners of property are  
6 able to avail themselves of our code and applications and submit requests for Zoning Text  
7 Amendments and that's what this applicant has done. Nothing in Council's direction prohibited  
8 them from doing that or directed Staff to no longer accept those applications and request for  
9 consideration. And so, we are processing the request as it's been submitted to us and was pre-  
10 screened by Council that evening. Now that evening did contain a number of items, this was  
11 one of them in terms of presenting that this is a desire that this applicant had to bring it  
12 forward, and so we're bringing it forward to PTC. That is not to say that we are not bringing  
13 forward the other items, which we certainly are, which are more comprehensive, but this is  
14 the... the applicant has submitted its application and we are processing that application.

15  
16 Commissioner Lauing: Ok. My second question has to do with that graph that was based on...  
17 starting on Packet Page 29. Sorry, 27, that was based on the CoStar data and there were some  
18 references in the text that this might not be perfectly accurate. So, I want to make sure we're  
19 reading it correctly and interpreting it correctly. So, on 27 there's a big blip around '09 and '13,  
20 '14 and then '17 and then again obviously. So, are these correct what we're looking at here?

21  
22 Ms. Tanner: [unintelligible – no audio] button there. Correct in regard to the accuracy or?

23  
24 Commissioner Lauing: Yeah.

25  
26 Ms. Tanner: So, it's as accurate as CoStar data could be and so again, that's... my understanding  
27 is it's based on what's reported to be available for leasing and the data sources that they use.  
28 And then of course the forecast is their best estimate of what they believe the future will hold  
29 based on the trends that they're seeing. Ms. Raybould, did you have further comment on that?

30  
31 Ms. Raybould: Just a couple things, so I think... there... I want to note that there was a very large  
32 vacancy rate that you're seeing for the CoStar data on Town and Country Village. This was  
33 during the time that peak was at the time but they were going through a renovation. So, there  
34 were a lot of vacancies at that point in time (interrupted)

35  
36 Commissioner Lauing: Which timeframe are you referencing?

37  
38 Ms. Raybould: And I would just note that... I believe it's in the 2009 time period; 2008 to 2009  
39 time period. So, yes, this is the information based on that was created from the CoStar data of  
40 the past vacancies.

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Commissioner Lauing: Any specific explanation from you or CoStar on the '13, '14 rise?

Ms. Tanner: We would need to ask the property owners if they have a sense of why that was rising?

Commissioner Lauing: I can ask that when we go to the applicant so that's fine. So, as I read the other ones as best as can be interpreted here. Obviously, they're all mostly shooting up in high vacancy at least downtown, midtown because of the pandemic; California Avenue. So, it just seems to me like all retailers are in the same boat which is being caused by the pandemic. So, I just wanted to make sure that I'm understanding the data here.

Ms. Raybould: Yes, generally that's the data that we're seeing from CoStar as well with the one exception that Stanford Shopping Center seems to be experiencing still very low vacancies which is the kind of a key exception to the data.

Ms. Tanner: And then another thing to note as was noted in the report, the percentages is about the space. So, Edgewood Shopping Center for example has a huge percentage because of one particularly large space was vacant. And so that's why you see that big plunge in the vacancy rate when that space is taken up so there's a bit of proportionality that's in effect. In Town and Country, my understanding from the data is that most spaces there are about 2,000ish square feet. Obviously, excepting some of the larger tenants that they have that are the anchors. So, and the Ellis Partners can correct if that's wrong but that might... just to understand that shopping center to shopping center, that data and percentage will vary because part of it is a function of the size of the vacancies as well as the number. It's not just how many spaces, it's what's the size of vacant space at that property.

Commissioner Lauing: Right and then the graphic that the applicant showed, similar to Packet Page 40, '10 to '21, clearly '21 is bleak and black because of this pandemic but other than '19 and '10, it's been a pretty good ride for the last 10 years. So again, just so I'm understanding this. So those were the two broad questions I had for Staff. I've got a lot more but I'll just hold it there depending on how you want to organize this, Chair Hechtman.

Chair Hechtman: I think you can... I suggest you continue. There were some Staff before the public... before the presentation so why don't you continue. I'm not seeing any other hands up just now so please continue Commissioner.

Commissioner Lauing: Well, my questions now will be going to the applicant, so you want me to go with that?

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1 Chair Hechtman: Sure.

2

3 Commissioner Lauing: Ok. Alright, so then to the applicant, is... could you give us some  
4 perspective in terms of understanding your business if there's a rent differential between the  
5 types of retailers that go in? And of course, obviously, in this case, is there a rent differential  
6 that... between medical offices as we're calling them and other kinds of specialty retail?

7

8 Mr. Ellis: Great question. The short answer is yes, there is a rent differential between the  
9 various different retail uses of, I'm going to guess about 15 percent. The total range may be of  
10 15 to 20 percent in rent.

11

12 Commissioner Lauing: Are you doing now medical versus specialty retail?

13

14 Mr. Ellis: All whether it's medical... the kinds of medical uses we presented in our deck or food  
15 retailers or apparel retailers. That would be the approximate range of difference in rent.

16

17 Mr. Rubinson: Which one is higher Jim?

18

19 Mr. Ellis: Oh, I'm sorry. Medical office rents would be towards the upper end of that.

20

21 Commissioner Lauing: Ok and is some of the apparel in other places, do you get into the  
22 percentage rent situations too?

23

24 Mr. Ellis: Yes, in some cases.

25

26 Commissioner Lauing: Ok and what about projected differences in length of leases?

27

28 Mr. Ellis: No difference in length of lease.

29

30 Commissioner Lauing: Do you have an average or a median that you do now in terms of lease  
31 length?

32

33 Mr. Ellis: 5-years but that has been shortening as of recent but usually we like to do a 5-year  
34 lease term or longer.

35

36 Commissioner Lauing: Plus, options?

37

38 Mr. Ellis: Yes.

39

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1 Commissioner Lauing: What you're... is there any particular analysis we should hear on why  
2 there are certain spaces upstairs that are vacant?

3  
4 Mr. Ellis: Well, historically and as of recent, the upstairs spaces really are just general office use  
5 and as you may have read, the pandemic has also dealt quite a blow to office buildings and  
6 office space demand. And I think what you're seeing is just the effect of that drop-in demand  
7 creating some vacancies in our second-floor office space.

8  
9 Commissioner Lauing: Sure, perfectly understandable. Is there... are those offices suitable to  
10 take medical offices?

11  
12 Mr. Rubinson: No, they're not allowed to be.

13  
14 Mr. Ellis: No.

15  
16 Mr. Rubinson: From a Zoning Code, they're allowed but since we don't have elevators, we're  
17 not allowed to have public-serving office uses on the second floor.

18  
19 Commissioner Lauing: Ok, good, good to know. Alright and then just a comment, I think in  
20 retail where I spent the first 10 years of my career in retail so that's old but it's at least  
21 somewhat relevant. You know I think in a... lots of open spaces in shopping centers is really bad.  
22 Customers don't like it and neither do other retailers, but in a pandemic, they're going to cut  
23 you a break because they're locked in their houses anyway. So, you have a little bit of time on  
24 that front so that that's not going to be a disaster I don't think.

25  
26 Do you have a view of what the storefront of a doctor's office or a medical office would look  
27 like visa via the ones that are there now from retailers?

28  
29 Mr. Ellis: Yeah, I mean that's something that's very important to us. Every storefront needs to  
30 have an optimal appearance. Depending upon the uses, you know let me see if I can use an  
31 example. Invisalign or other medical services are going to have open storefronts for the most  
32 part where they would have reception areas or information about the medical service they  
33 provide. I've seen a couple of these and they do a very good job of making sure it's as  
34 presentable as possible. Invisalign would be one of those examples. I think it is not... let's be  
35 honest, it is not an obvious retail merchandising storefront presence. It's different. Would I  
36 rather have retail there? Yes. Do I believe that the long-term trends of retail disruption, which  
37 again have only been accelerated by COVID, are going to create long-term problems for us? You  
38 know, they are. I have a real concern about reoccupying the entire center with pure-only retail  
39 uses going forward.

40

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1 Commissioner Lauing: Ok and then another question, as you think about the layout, what  
2 would be your preferred locations for these non-retail stores?

3  
4 Mr. Ellis: Our preferred locations for these uses will be the... and I hope they're not listening  
5 right now... the less prominent locations within the shopping center.

6  
7 Commissioner Lauing: Right, so things like Big Daddy's or the Old Cheese House. Things like  
8 that? Sort of on the backside.

9  
10 Mr. Ellis: Those could serve as examples, yes.

11  
12 Commissioner Lauing: I'm trying to bail you out here in case they're listening. I'm bringing up  
13 the examples, ok?

14  
15 Mr. Ellis: Thank you.

16  
17 Commissioner Lauing: And I presume you specifically would not want these facing El Camino?

18  
19 Mr. Ellis: No. We would prefer not. We don't know how difficult the retail environment will  
20 continue to be so we would hope not to do that. I can tell you that having the street fronting  
21 retail is the most leasable space that we have.

22  
23 Commissioner Lauing: Right, which is quite traditional and quite obvious I think, and then what  
24 would the... oh, another thing. Have you given consideration to the pluses or minuses if you did  
25 this to group them in one spot? Like all back by the... in one area so that people just know that's  
26 kind of an office area versus spreading them out in your center?

27  
28 Mr. Ellis: I think in terms of how we look at merchandizing the property, we're really very  
29 careful about it. Our read on it is that we would not want to concentrate these uses into one  
30 location. We'd want to spread them out and continue to provide the variety of experience  
31 throughout the center. I think concentrating it into one node probably reduces the benefit that  
32 the increased foot traffic would have on the other retail tenants.

33  
34 Commissioner Lauing: And similarly, then, not to put words in your mouth, but you probably  
35 would not want to have them in contiguous spaces?

36  
37 Mr. Ellis: Correct.

38  
39 Commissioner Lauing: What do you anticipate the hours of these places are?  
40

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1 Mr. Ellis: They will (interrupted)

2

3 Commissioner Lauing: 8:00 to 5:00?

4

5 Mr. Ellis: For the large part, be running normal business hours. So, you know, you mentioned  
6 8:00 to 5:00. That could certainly serve as an example.

7

8 Commissioner Lauing: Right, so any traffic at the night time while people are walking around  
9 with their ice cream cones, there would be no extra traffic coming in after 5 o'clock to help with  
10 evening [unintelligible](interrupted)

11

12 Mr. Ellis: Not that we anticipate.

13

14 Commissioner Lauing: Yeah and I know this is... maybe sounds slightly off subject but it's not.  
15 Where there other areas that you considered, and I know that you talked about at Council like  
16 some relief on CUPs or easier permit, regulations, stuff like that. That might also be on high on  
17 your list.

18

19 Mr. Ellis: We're always very appreciative of ways to streamline the regulatory process of us  
20 installing a tenant into the shopping center. This Zoning Text Amendment certainly doesn't  
21 eliminate the fact that we have to apply for a Conditional Use Permit for every individual  
22 medical office use. So, that is something we're just going to have to work with. It delays... it  
23 poses a significant delay to our ability to lease and occupy the property but we are prepared to  
24 work within that current zoning policy.

25

26 Commissioner Lauing: That's all the applicant questions I have, Chair.

27

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1 Mr. Ellis: Thank you.

2

3 Chair Hechtman: [unintelligible – no audio] Commissioners? Who would like to speak next?  
4 Commissioner Summa, thank you.

5

6 Commissioner Summa: Thanks. I'll jump in since no one else wants to and thank you  
7 Commissioner Lauing. You asked a lot of questions that had occurred to me and I want to start  
8 out by thanking the applicant for really revitalizing Town and Country. I mean it's a huge  
9 success. It's walkable from a lot of locations. I live in College Terrace which is near California  
10 Avenue and I even walk there because I like walking. And it has a really nice vibe because of all  
11 the young people that use it and students and it's so busy before COVID that there was valet  
12 parking.

13

14 So, I appreciate that all of our commercial and many of our residential property owners are  
15 experiencing vacancies and we... my problem is we haven't got a handle on it yet and we don't  
16 understand the impacts. I think that a success story like Town and Country pre-COVID, coupled  
17 with its superb location and the great curation of the tenancies... tenants. I think it likely to  
18 come back post-COVID and I think people are dying to get off the computer, go out in public. I  
19 mean I am the kind of person that doesn't like... didn't shop much online previously. I like to go  
20 in and look at stuff and support our local businesses. So, I am just worried... I am... I feel your  
21 pain. I am profoundly concerned about how to do this the right way and holistically across the  
22 City so that one location is not favored over others.

23

24 And so, I'm also very worried that the timing of this is a little off. I mean we are looking at  
25 people being vaccinated fully in the next few months and really, we're sort of, thankfully,  
26 coming out of the worst of the pandemic. So, I'm just... the timing seems a bit off for me and  
27 I'm concerned about the permanency of this change and that is because Town and Country was  
28 so very, very successful. And there are other places, other retail locations in our City that are  
29 more troubled.

30

31 So, and I also don't know that we have a clear handle on what we're going to need post-COVID  
32 in terms of adjusting somehow our uses. Do we have... is putting medical office here going to  
33 take away from an existing medical office that may be experiencing vacancy because of COVID?  
34 It's all so up in the air right now that that is my concern, is that this is a little bit premature.

35

36 That being said I apologize because to you it... the applicant it's a desperate situation but a  
37 world-wide pandemic is just that. A desperate situation so in a broad way that's kind of my  
38 concern with this. That we don't have good information Citywide on what kind of uses we  
39 might need to consider changing and I think I'll leave it at that for right now so thank you.

40

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1 Chair Hechtman: Commissioner Templeton.

2

3 Commissioner Templeton: Thank you very much. Thank you for the presentation and thank you  
4 to the applicant. Commissioner Lauing addressed some of my questions. The remaining ones  
5 are, you know I have one for Staff and one for the applicant.

6

7 So, just to follow up on what Commissioner Lauing said, are... is Staff planning to come back  
8 with a broader discussion? I recognize that today we're specifically talking about this  
9 application but what is the plan from Staff to address the broader goal that City Council set  
10 out?

11

12 Ms. Tanner: Yes, we will be returning to the PTC for discussion of those uses that were outlined  
13 in the motion and even the motion that was not as supported as resoundingly to consider that.  
14 So, we'll probably have at least one study session and then come back for action on those items  
15 and you know, it may be a couple sessions with the PTC. We would like to get to Council  
16 certainly by the fall, so if we can take this first part of the year and prepare to bring to Council  
17 something at least by the fall, perhaps sooner. Maybe as we go through the study session there  
18 are items that PTC feels like we have a pretty good sense for this topic or this use and we want  
19 to move that forward and other ones need more time.

20

21 Commissioner Templeton: And was... remind me, was the motion from Council defined  
22 specifically to address COVID-related issues, and do we think the fall timing will be able to  
23 address that?

24

25 Ms. Tanner: Well, it's really... I would say there's two ways to look at it and I'm not an operator  
26 of a shopping center so my way is probably a little slower than folks who actually have spaces  
27 for rent. You know I really think about it as how are we going to think about the empty  
28 storefronts we have and what should fill them in the future, but really, it's not just immediately  
29 responding to COVID. It's over the next lifetime of that property possibly, right? So, when I  
30 think about recovery, it's about we're going to have... we have an increase in vacancies, we  
31 know that vacancies can cause more vacancies and so if we're thinking about trying to stop that  
32 or [unintelligible] that. How can we go forward?

33

34 Some of the uses, not that we don't have businesses opening during the pandemic, but you can  
35 imagine some retail and retail-like uses are not opening new uses right now because it would  
36 be a challenging time to open let's say a new restaurant perhaps. Depending on what type of  
37 restaurant you have and so that's... I guess what I'm saying is there's immediate needs that  
38 shopping centers like Town and Country are bringing saying hey, we think this can be an  
39 immediate thing for us to help to prepare us now but also into the future. And I think the  
40 discussion we'll be having is saying we have this tragedy of all these vacancies, what do we

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1 think about the coming decades versus this kind of immediate thing? And it sounds like for  
2 Town and Country, the medical uses because those are still operating and those are essential  
3 uses. Those could possibly begin to serve people you know even during the pandemic unlike  
4 some of the other retail and retail-like uses.

5

6 Commissioner Templeton: Thank you for answering that question.

7

8 Ms. Tanner: Does that answer your question? Yeah? Ok.

9

10 Commissioner Templeton: It did. I do have one more question before I go to the applicant and  
11 I'm struggling to find a way to phrase this that doesn't sound somehow tongue and cheek, but I  
12 do mean this as an earnest question. Is it common or acceptable practice to call out specific  
13 properties for exceptions in the code?

14

15 Ms. Tanner: We certainly do it and so we have different rules that apply to different shopping  
16 centers and so this is the case with Town and Country. It's the case with the formal site that  
17 formally had Fry's. That there are specific code sections about what is and isn't allowed there  
18 and the grandfathering of uses and specific sizes at that site.

19

20 I won't say that it's always a great practice depending on how it's executed. So, we do want to  
21 execute it in a way that is clear for future planners to interpret and understand what is the  
22 meaning of the code at that place. With land that's contiguous like the shopping center or  
23 Stanford Shopping Center or other places, it is because they're contained. It's a little bit easier  
24 in contrast like when we're thinking about let's say University Avenue. We're talking about  
25 multiple property owners, so in that case, we're thinking about really what are the mix of uses  
26 and kind of things we want to see on that corridor. To which would apply to an array of  
27 property owners and it's a little bit more of a question mark of how that unfolds so it's a little  
28 bit different.

29

30 Commissioner Templeton: I appreciate you clarifying that. Alright, so over to the applicant.  
31 Again, thank you for the great presentation. I want to ask kind of the other side. You presented  
32 us the current situation and some... a vision for some changes that if we do make, that you feel  
33 would be supportive of your business. What does the other side look like? What if changes  
34 aren't made? Can you paint us that picture and let us understand what that would mean to the  
35 entity that is Town and Country in Palo Alto?

36

37 Mr. Ellis: Well, as I said before there's been a lot of national and regional articles on this topic. It  
38 is... there's been a lot written about it. Retail is facing a very different future and the bottom  
39 line is, is that the United States is over retailled by a factor of three compared to any other  
40 country in terms of square footage. So, we have way too much retail space, we have a declining

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1 demand for retail space. How that might manifest itself at Town and Country if we don't get  
2 immediate relief to have a use pallet that is commensurate with many other communities with  
3 similar demographics to Palo Alto? We're going to have vacancy. Owners of centers in other  
4 places are scraping them or turning them into housing or turning them into the uses that just  
5 provide some type of partial salvage on the investment they've made in the property.

6  
7 Our goal and it's consistent with the CC zoning which has basically I think in a good way  
8 shrouded the property into this state of its historic current presence. That's what Town and  
9 Country is and when we bought it we knew that that's what the community wanted. And we  
10 were happy to keep it the way it was in terms of its architectural feel and appeal, but I have to  
11 be honest. If we don't... if we're not allowed any further flexibility with the City of Palo Alto, we  
12 will have extended prolonged vacancies that I fear will make it more and more difficult for small  
13 businesses that are in the center how to survive. I think Trader Joe's will probably make it and  
14 CVS, maybe.

15  
16 Mr. Rubinson: And I guess I'll just add to follow up, we're trying to be as sensitive to the  
17 concerns you are raising. We share them. Obviously, we've been curating the shopping center  
18 for 15 plus years with the same goals in mind that you have of creating vibrancy and making it  
19 relevant. So, we're here with you as partners in it. That's why we're only asking for a nominal  
20 amount of the ground floor. We're certainly not asking for it to be converted to a medical office  
21 use. We think that we can carefully locate these uses in a way that they would enhance the  
22 overall mix with foot traffic and so forth.

23  
24 And I would say in terms of the zoning as Ms. Tanner mentioned, Town and Country has a  
25 whole section in the Zoning Code specifically dedicated to it. It's part of the CC Zone and I  
26 believe that only Stanford Shopping Center shares that zoning. So, it's not like this would create  
27 a letting the horse out of the barn here to use a misused phrase. It's we're really our own entity  
28 here, so we're not... I don't think this is going to set a damaging precedent and Stanford already  
29 has a tremendous amount of medical office surrounding it that helps support it during these  
30 difficult times. So, I think that this is a one-and-done kind of thing if the CC Zoning opens the  
31 door to it so.

32  
33 Commissioner Templeton: Thank you both. I really appreciate that and I know you were trying  
34 to keep the presentation positive and uplifting but it's helpful also to see the contrast of what  
35 would happen if this change... the proposed change were not made. So, I appreciate your  
36 sharing your perspective and just to... I'm going to try and sum it up and I would love to reflect  
37 that back with you and see if I've got it correctly. But it seems to me like the cultural gathering  
38 place that is Town and Country or has been Town and Country over the past decade and a half  
39 of your ownership has... is undergoing a fundamental change. And it can't continue forward for  
40 long unless changes are made to extend it and even then, things may change over the next

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1 decade or two, but your proposal is trying to add years of life to this space. Is that what you're  
2 saying?

3  
4 Mr. Ellis: Yes.

5  
6 Commissioner Templeton: Thank you. That's really helpful. That's all the questions I have for  
7 now. I appreciate it.

8  
9 Mr. Ellis: Thank you.

10  
11 Chair Hechtman: Commissioner Alcheck.

12  
13 Commissioner Alcheck: Thank you, Chair. I just want to acknowledge the Staff and the Staff  
14 report and also the applicant for participating in this discussion. I was intrigued by this request  
15 when I... ever since I saw the Staff report and I have spent a great deal of time thinking about  
16 this. And I want to walk my fellow Commissioners through my thought process and share my  
17 perspective in an effort to see if there's a way to send a direct message to the Council and give  
18 them good advice.

19  
20 As a professional in this industry, in the real estate industry, I'm very familiar with the current  
21 challenges that are facing retail property owners and retail establishments and the like during  
22 this pandemic. As the applicant noted during his presentation, the retail landscape is  
23 dramatically different than it was when the shopping center was built, when it was in operation  
24 in 1998, and even since 2010. And I think that there are no lack of studies on retail performance  
25 all over the country that demonstrate that the impacts, in general, aren't uniform. Location,  
26 location, location, remains the most important factor in a retail site's performance and for that  
27 reason, I think Town and Country has continued to outperform any retail shopping centers in  
28 the Bay Area. And this, I believe, enabled it to weather the recession that began in 2008 better  
29 than its regional competition and it's why I believe it's well-positioned to experience better  
30 performance in its competition post-pandemic.

31  
32 Look, that perspective is not intended to brush aside the impacts of the pandemic which are  
33 clearly overwhelming. I don't doubt the sincerity of either of the two-gentle speaking on behalf  
34 of Town and Country tonight. For many, not all, but for many of our City's residents, the  
35 pandemic has meant working from home with minimal loss in income. But for those who own  
36 or work for retail or retail service businesses, the pandemic has resulted in a very different  
37 outcome. In many cases, it's a devastating and fatal one.

38  
39 In my view, it is not accurate to say, as our public speaker did, that the vacancy can be  
40 remedied by simply lowering rents. That is inaccurate. The uses permitted in this retail site in

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1 many cases aren't just struggling to operate profitably, they are struggling to operate period. I'll  
2 give you an example, a salon. They open, they have to close, they can open, they're not... it's  
3 not about whether they can afford the rent. It's can they actually open, operate? They can't.

4  
5 Any person who is thinking about opening a business, like what? Other than I'm going to cook  
6 food and deliver it to people. What... this is not a healthy environment to open a business.  
7 You'd be a crazy person. The only... even in commercial leasing, the... I just read a report that  
8 said that the... one of the... well, it's not a positive report but one of the biggest commercial  
9 leasing trends they've noticed is increases in legal space for family law practices. That's sort of a  
10 sad take on this moment but the point is, is that if you were contemplating opening a business,  
11 name it. Toy store; clothing boutique; nail salon; hair salon. I don't know, say all of the little  
12 shops down... unless it's a bike store, which we know that those are doing well. They aren't...  
13 but they're still struggling to operate in the way that they operate and this notion that if you  
14 just return rents to zero you'll find somebody will sign a lease and they'll make a way to make it  
15 work is inaccurate.

16  
17 So, I want to dispense with that notion. I think we have to acknowledge that the challenges of  
18 the pandemic are overwhelming, but I want to flip the coin here and say that these are not...  
19 these are immediate challenges. And as insurmountable as they are, they are immediate but  
20 not never-ending, and while I can't see around the corner yet. I know that what it will look like,  
21 I know that once we get to the corner there will be a path on the other side of the corner and  
22 that these pandemic-specific challenges will subside. I can't... I don't know when. It's not clear if  
23 it's next February or next summer, or earlier and so allow me for a minute to address this  
24 request from a pre-pandemic perspective because I think that's more informative.

25  
26 Retail properties everywhere in the US have had to really innovate to really overcome the  
27 changes in the way people are shopping and many have done so with varying degrees of  
28 success. And often what you see in many retail shopping sites has been an effort to reduce the  
29 amount of overall retail space and that is because nationwide demand for retail space has  
30 diminished. What you would described 15 years ago as a large... if I could just interrupt for  
31 second myself which is how many total square feet at there at this site?

32  
33 Chair Hechtman: 171,000 and change.

34  
35 Commissioner Alcheck: Ok. It use to be that 15 years ago you would look at a... you would say  
36 oh, this is a large shopping center and you would describe that as a 150,000 square feet. Now, if  
37 someone was considering building 150,000 square foot shopping center, not a mall like that's  
38 too big. That's absurdly big. You'd be like cut it in half. Large is now 100 and... is 70. So, this is a  
39 large shopping center but it use to be a medium-size shopping center and that's because to  
40 address some of the challenges in retail, we have been developing... the industry has been

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1 developing smaller-scale shopping centers. Precisely to essentially have less space to manage  
2 and I understand why. It's not unclear to me.

3  
4 When the PTC review the Retail Preservation Ordinance in 2014 and 2015. I supported the  
5 concept of protecting our precious retail, but not in the blanket form that the ordinance  
6 pursued. I advocated then for a more focused approach. Identifying areas that were clearly  
7 important retail centers to Palo Alto and allowing other areas to experience greater flexibility.  
8 That, I argued then, would truly protect retail because it would have eliminated some retail  
9 space in our town that was not within our central retail zones and it would have allowed the  
10 remaining retail property owners to experience greater demand from reduced but more  
11 concentrated supply. Essentially, the philosophy that I was supporting in 2014 is we can't save it  
12 all and to be clear, this site, the Town and Country site, would be among an example of a  
13 property within a specific protected retail zone where I would have strongly advocated for the  
14 application of a superior but more surgical Retail Preservation Ordinance. In simpler terms,  
15 what I'm saying is this is one site where I strongly believe we should be preserving retail over all  
16 other uses. But in some ways, our Citywide retail preservation effort has made preservation  
17 impossible because successful preservation requires you to pick and choose. You can't save it  
18 all. It was arrogant to implement a Citywide Retail Preservation Ordinance during the good old  
19 days of 2015 when we couldn't have imagined that the economy could be worse. When we  
20 already knew that the challenges that retail were facing were dramatic. Shifts in consumer  
21 shopping trends, online... the online retail space growing by leaps and bounds. We knew then,  
22 we should have thought more carefully about what it is that we thought we were going to  
23 preserve.

24  
25 Five years now have passed, we have not allowed any consolidation of our retail space across  
26 the entire City and now when the bottom is falling out we need to address it. Well, my advice,  
27 just to... that I would suggest we transmit to the City Council and to Staff frankly would be to do  
28 now what we should have done then. Allow retail in sites that are not University adjacent, Cal  
29 Avenue adjacent. That are not located at the Town and Country Center and that are adjacent to  
30 a few other very specific and important retail zones to have greater flexibility to reduce their  
31 retail and have other uses. I'll give you a few examples to help people understand what I'm  
32 suggesting. The idea here is that not all of our retail sites should be treated equally from the  
33 perspective of preservation. Our downtown is more important than Edgewood Plaza and  
34 California... which is an island and California Avenue and Town and Country are more important  
35 than the random retain sites that dot El Camino from Arastradero to Page Mill. Like, as much as  
36 I enjoyed it, the former site of Pizza Chicago. We can't preserve it all. We can't save it all so we  
37 need to start thinking what's most important.

38  
39 This is not going to help Town and Country weather the pandemic, unfortunately, or I should  
40 say it's not going to help them deal with the challenges that they are facing this month. It will

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1 help them succeed in 6 months or one year when the pandemic-specific challenges have passed  
2 and there are more people interested in their retail space because there isn't a potential option  
3 for them to rent on El Camino and whatever.

4  
5 I would argue to you that the Fry's site is less important than Town and Country. We should not  
6 be preserving however big of retail site that is when we know that more important retail  
7 centers are struggling. So, we have to pick and choose, that's my advice and we should do it  
8 now because I believe that there is an owner out there who can survive this. There is a Town  
9 and Country owner out there that can survive it. I hope, for your sake, that it's you guys. If it's  
10 not, I'm sure the baton can be passed but there is an owner who can survive this transition  
11 through the pandemic. The question is, will we create an environment for them to succeed for  
12 the next decade or two, and that requires us to dramatically look at the retail preservation  
13 concept in general. And this is to some extent related to what Commissioner Lauing said which  
14 is what I imagine he would prefer a more holistic approach to this, but it requires us to really  
15 take a deep dive into understanding how we come out of this and how we preserve retail in the  
16 future.

17  
18 Now, the last thing I want to say is that I do believe eventually we'll get to a moment in time  
19 when it will be clear that retail-only sites are not sustainable. Town and Country will get to a  
20 place where it is not sustainable to be just retail. I don't think we're there right now but we're  
21 not far and when that moment arrives, I don't want a property owner like Mr. Ellis or anyone  
22 for that matter. The property owner of a place like Town and Country to rely on medical office  
23 to extend the life of a poorly utilized site. What we should ask those individuals to do, what we  
24 should empower those property owners to do is to come back with mixed-use. Town and  
25 County isn't working. Would it work better with three stories of housing on top? It worked for  
26 Santa Row. It works really well for downtown Redwood City. The site will eventually struggle to  
27 sustain retail by itself. The question is, is should we create a world where retail can shrink,  
28 housing can increase and that equilibrium that's necessary for success can be achieved.

29  
30 Right now, it sounds like 75,000 square feet of retail is too much in a City that preserves all  
31 retail. I completely empathize with you. I feel your pain and if I could I would have passed a  
32 different rule 5-years ago that would have allowed some of your competition in the City to have  
33 gone a different direction and would potentially have made you a little more comfortable right  
34 now. But I still think the pandemic's influence on your particular business model is very unique  
35 and un-addressable frankly by what I'm suggesting but your future would be brighter if we did  
36 that. And the second part of what I'm saying is while I do believe that one day you'll get to a  
37 place where even 70,000 square feet of retail will be too big and the question will be well,  
38 we've got this anchor tenant, we've got these two buildings of retail and maybe if we put  
39 housing on top of it. This site becomes better utilized and that's the goal here. The goal is that  
40 we create a zoning approach which creates really the best uses of land. Not the most profitable,

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1 but the best uses of land and in my opinion, Town and Country would be better with a vibrant  
2 retail supported by vibrant housing. Not medical office and I did not want to appear to be  
3 insensitive by not also acknowledging... admitting as a Planning Commissioner that the City did  
4 no service to its retail members... community members by preserving everything. Because we  
5 didn't think through what... where we wanted to consolidate in the... with the knowledge of  
6 how the retail is changing.

7  
8 So, I'd be curious to sort of get some response and see what the rest of you think and figure out  
9 a way we can communicate to Council how to move forward from here.

10  
11 Chair Hechtman: Thank you, Commissioner. So, I guess I'll go next. I think I want to start by  
12 saying how great I think Town and Country Village has been. I remember going there 20 years  
13 ago or more when it was sleepy and a little run down. Maybe a little bit more than a little bit  
14 run down and I actually remember buying airline tickets from a United Airline's office that I  
15 think was on the ground floor. And that's the... and I remember thinking it was great because  
16 there was like one person in there. There was no foot traffic. There was no competition. I could  
17 just walk up and get my ticket. But there wasn't a lot of draw there and then I contrast that  
18 with what it was like just in the months and couple years... a few years before the pandemic  
19 and it was an extraordinary transformation. It had become a true community center and it was  
20 just buzzing. You know the evenings with the restaurants and the concerts in the parking lot  
21 and I join Commissioner Summa in expressing appreciation to really the architects of that  
22 transformation. I think it has really added something to the fabric of Palo Alto and in part  
23 because the two of you did that. To me, that adds a lot of credibility when you come forward  
24 not 2 years ago when already the nature of retail was changing. You  
25 ... wait until you get 6 months into this pandemic and start seeing effects beyond what are  
26 tolerable to come with a solution that as I understand your presentation, it's really based on  
27 evolving best practices within the industry and while I like the idea that some of my fellow  
28 Commissioners have discussed about taking a holistic approach on this issue and urging the City  
29 Council to really step it up in our deliberation of some over all strategies, we have an  
30 application before us now pursuant to our rules and I want to take action on it.

31  
32 I do... and when I look at your situation I do try to not be overly affected by the effects of the  
33 pandemic which I see as a short-term issue compared to the evolution of retail. And so,  
34 because of that, I do like the slightly more conservative approach that Staff is proposing in their  
35 alternative. The 15 percent instead of 20 and limiting any one individual medical office space to  
36 5,000 square feet or fewer and I appreciate I think it was Mr. Rubinson, in your remarks  
37 indicating while your numbers were based upon your study and what you'd like, that you are  
38 already... that you're willing to accept those lower Staff figures if that's the will of the Planning  
39 Commission.

40

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1 I did have a question on the third figure proposed by Staff which is the 25 percent contrasted  
2 with the 30 percent overall that you had requested and let me... my concern is math-based and  
3 that's this: And what... and I thought I was pretty clear on where I wanted to go on this until I  
4 heard the applicant say that they could live with the 25 percent. So, that made me think well  
5 maybe I'm not doing my math right, but here's what I'm thinking. You have a 171,000 square  
6 foot shopping center, you have 21,734 square feet upstairs. If you have 15 percent medical  
7 office downstairs, that's I think the Staff figures 22,500 and something. That's for 15 percent  
8 downstairs. If you have 25 percent overall, that... 25 percent office overall. You've got 15  
9 percent downstairs, that leaves you only 10 percent office upstairs in the way I'm  
10 understanding this which would mean you could only put 17,000 square of your 21,000 square  
11 feet... you would have to leave 4,000 square feet vacant if you got 15,000 square feet of  
12 medical office. So, I was thinking that 25 percent needed to basically be 27.64 percent which  
13 was all of the upstairs plus 15 percent downstairs. But again, when I heard Mr. Rubinson say 25  
14 percent would work, that made me think well I'm missing something. So, a question Mr.  
15 Rubinson (interrupted)

16  
17 Mr. Rubinson: I'm happy to help if I can? Yeah, I can happily clear it up. I think it's a question of  
18 denominators. The 15 percent that we're willing to accept for the ground floor is of the ground  
19 floor square footage of about 150,000 feet. The 25 percent for the overall, the dominator is the  
20 171,000 feet. So, if we filled up the full 15 percent on the ground floor, it would only mean that  
21 we'd have about 1,000 square feet of overall office that we wouldn't be able to utilize. So, I  
22 have a spreadsheet I can pull up. I shared it with Claire today but it actually balances quite well  
23 both with our original request and Claire's alternative request such that it all allows us to fill up  
24 the maximum at the ground floor and the maximum overall within about 1,000 feet. And I can  
25 pull up the spreadsheet if you'd like to take a look at it.

26  
27 Ms. Raybould: I think Vinh is going to pull up the Staff presentation had a pocket slide with  
28 some numbers. Vinh? It might be helpful. It's as you mentioned, it's about 12,000 or 1,200  
29 square feet is the discrepancy. So, if you were to fill everything it would be 25.7 percent.

30  
31 Mr. Rubinson: Correct.

32  
33 Ms. Tanner: So, as you walk through its kind of just goes through... I know everyone is kind of  
34 reading through it so we'll just read through it together. Total site square footage, the total  
35 ground floor, the existing office on the second floor which I believe is the total square footage  
36 for the second floor even if the office I vacant. Correct Claire?

37  
38 Ms. Raybould: Correct.

39

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1 Ms. Tanner: The medical office on the first floor, that's 720. That was grandfathered in from  
2 previous use before changing of rules regarding medical office. The allowable proposed by the  
3 applicants so it's 30 percent of the total site, the 25 percent of the total site square footage and  
4 then you have 20 percent of the ground floor versus the 15 percent of the ground floor that  
5 Staff has proposed, and then again, the 25.7 percent which would be a full build-out of the  
6 upper floor's office and 15 percent of the ground floor with medical office. Obviously, a little bit  
7 of an odd number. Maybe round up to 26 if we wanted or 25.7. Certainly, with the information  
8 regarding the limitations because no elevator to the second floor, that may be something to  
9 consider to ensure that there is not unused space on the second floor for a matter kind of  
10 computational issue.

11  
12 Chair Hechtman: Alright, so this slide is really helpful to me. I did not do my math right but my  
13 concept was correct. I was just off by a couple of percentage points. So, really what I'm talking  
14 about is that .7. That 1,200 square feet which with... and a cap of 25 percent we are going to  
15 essentially legislate 1,200 feet of vacant space as I understand it.

16  
17 Mr. Rubinson: Well, we wouldn't choose to use the entire 15 percent. We could drop the 15  
18 percent to 14 percent and then allow us to fill up our second-floor office space. So, we're trying  
19 to round to the nearest five here. You know obviously, we could ask for 14 or go for 26 and that  
20 would balance it more perfectly but.

21  
22 Chair Hechtman: Let me just ask if this way. What I'm wanting to propose is that we give you  
23 the full 15 percent downstairs and full occupancy upstairs which would be 25.7 and allow you  
24 to fill 44,271 square feet that way. It sounds like you're saying that for some reason that might  
25 be more complicated than it needs to be and you're ok with 43,000 square feet which is exactly  
26 25 percent or.

27  
28 Mr. Rubinson: But your solution is better for us. We were trying to not make it as complicated  
29 as that. We're trying to keep it a round number and simpler but I think your point is excellent  
30 and if that makes sense, that would help us improve the balance.

31  
32 Chair Hechtman: And so, my feeling on that, again I'm interested in hearing other  
33 Commissioners, is that our zoning changes are already going to include very precise numbers.  
34 Whether it's the 42,995 that's the Staff proposal or the 44,227 you want and so I have no issue  
35 with an unrounded 25.7 because again, I think that actually provides guidance in the future if  
36 there are other shopping centers that want to approach us with a similar issue. So, I appreciate  
37 your simple approach but I like the idea of... I like the vision of 100 percent occupancy at your  
38 shopping center and every shopping center.

39

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1 So, I think that that is... those are my remarks. I'd like to know if there are other Commissioners  
2 that have more to say or if somebody wants to make a motion? And I see Commissioner Lauing,  
3 your hand is up.

4  
5 Commissioner Lauing: Yes, thanks. I really think that the basis of this request is in the  
6 perception or at least the arguments from the applicant on the rebound of the retail in Palo  
7 Alto after the pandemic. And so, I'd just like to make a few comments on that because the  
8 applicant letter on Page 34 talks about how the restart of the restaurants and leasing may take  
9 years and years and years. Local references to Amazon which has taken a toll on retail, no  
10 question, but at base the... I just disagree with the severity of the forecast. I mean basically, we  
11 have one year of data and everybody is hurting in retail. So, I don't think that that speaks  
12 particularly to this particular shopping center and because retail... because people like retail,  
13 retail is going to come back. So, as I mentioned, my original career started in retail and it was  
14 book selling particularly so just give one example out of that because I'm familiar with it. From  
15 the decade that I was in and for decades since, everyone has been predicting the eradication of  
16 small retail book sellers for lots of reasons. Originally it was the big chains were going to kill  
17 them. Then it was Amazon. Darth Vader's in town. They're going to kill them. Then e-book  
18 came out and that was going to wipe out not only book stores but books themselves and none  
19 of that happened. And today there are literally more independent retail book stores than  
20 there's ever been in the United States because some, not all, retailers adapted. Adapted  
21 merchandise, did bricks and clicks, and like Books Inc in your shopping center, they're still  
22 existing. So, there's no question that Amazon has had a big impact but... a massive impact but a  
23 lot of people are [unintelligible] and so I think retail is coming back.

24  
25 I'm particularly interested in pointing out as you guys know because you trying to track these  
26 retailers that come to your space. You know there's sort of really new kinds of retail and that is  
27 important to look at. For example, at Stanford they have this thing called the Dry Bar which  
28 does nothing but dry people's hair; women's hair. Now when I first heard about that, I said well  
29 that will be out in two weeks because I didn't get it and it's not. It's a great success. Well, that's  
30 an innovation. A gym closed on Emerson that I used to go to and they repositioned it as a  
31 boxing gym instead just to do something a little bit different. Allison Cormack said in one of  
32 these meetings when you attended it, Mr. Ellis, that there was a shop in midtown that now  
33 caters specifically to only gluten-free products. So, there's differentiation retail that's out there  
34 that's different... that's new that I'm sure you are and continue to pursue to fill your spots.

35  
36 And then I'm even more interested in all these people that intentionally went only to online  
37 because they were going to go around the retail challenge and be successful and what do you  
38 know? Warby Parker is now on Ramona Street because they didn't want to just be that way.  
39 They know that customers, some of them want to touch and feel and they know that the  
40 coordination of online and in-store is even better. And the latest thing, a store that just went up

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1 in the pandemic on University sells used clothes. Now, who would have thought that that was...  
2 well, they're luxury used clothes, and online they're about \$300 million right now. So, I'm just  
3 saying that there are a lot of different things besides thinking well, we need another shoe shop  
4 or we need the barber shop to come back or whatever and you guys are good at that so I think  
5 you're going to find some. And none of us can predict the future and I'm not trying to compete  
6 my crystal ball against your guy's, but I think the sad vacancy rates are predominantly because  
7 of the pandemic. That's the data we have. So, people are staying away from stores right now  
8 because they don't like them, it's because they're locked in and same thing with Pally and at  
9 Stanford. I think they'll want to be shoppers ASAP.

10

11 So, the question is, is this necessary to take action on now and as I said at the outset, in  
12 isolation, or will shoppers soon be emerging from their bunkers and be ready to go. I think the  
13 answers the latter and restaurants like Mayfield being resurrected at your place. I think it's  
14 going to come back very strong. Not in 2 months. Nobody is going to sign a lease right now but I  
15 think this is not the right time to do this and not the right time to be doing it just in there. I  
16 mean I think what you're asking for frankly, is more of a financing strategy than a vibrancy  
17 strategy which might be fine over time. But I would rather, kind of team tagging with Mr.  
18 Alcheck, I would rather consider the whole thing around the what do we need, retail where,  
19 and what could we do and consider all the categories that Council has put in front of us. So, and  
20 ultimately medical offices are not that as exciting as retail. That Jim you actually referred to in  
21 one of your comments as well. It's just not. You know the store fronts, things like that, it's just  
22 not. So, I would like to deal with this more as a gestalt and I think things are going to get a lot  
23 better after the pandemic starting with restaurants, well very soon.

24

25 Mr. Rubinson: May I make a quick comment?

26

27 Commissioner Lauing: Who talked?

28

29 Ms. Tanner: That would be through the Chair. It sounds like I think Dean or Jim have a comment  
30 if the Chair would want to have that response or if Commissioner Lauing would want a  
31 response. Is that the will of the Commissioners?

32

33 Chair Hechtman: I'm open to allowing the response and please do.

34

35 Mr. Rubinson: Ok, thank you. Really helpful discussion, really, I mean really helpful for all. I  
36 would just say that and I know some of you may or may not be in the real estate world. The  
37 cost of refilling a shopping center, especially with regards to restaurants, is incredibly,  
38 incredibly expensive to renovate, to pay tenant improvement allowances and broker fees as  
39 well as to give what [unintelligible] what likely can be expected during this period of rent for in

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1 some cases half a year. So, the investment that's going to have to be made even as the  
2 pandemic diminishes in its impact is going to be incredible.

3  
4 I'll let you know that the shopping center right now is in the red. It's going deeper into the red  
5 each week. We are struggling to keep our tenants there as Jim mentioned by allowing them to  
6 pay very limited rents. We agree with you that there will be some [unintelligible] of the impacts  
7 as people go back and are excited to go out for drinks and so forth, but all studies that we've  
8 read is that the patterns of eCommerce that have been created during the pandemic are likely  
9 to continue longer term. It's similar to the office work from home changes that are likely to  
10 continue here. So, we think there will be some improvements without a doubt.

11  
12 The struggle that we're going through right now and the very slow rebound and very costly  
13 experience to facilitate that rebound we fear could push us over the edge as the owner of the  
14 shopping center and the curator of this treasured community asset and we remember the days  
15 with that airline office. Next door to it was a piano storage studio if I remember right where  
16 Mayfield was and then there was tremendous vacancies elsewhere. So, we've been there,  
17 we've seen what can happen here. We also own other shopping centers that we purchased  
18 from other national retailers and we've tried changing out the Jamba Juices and the Chipotles  
19 and every other national retailer that wants to come into these shopping centers. We don't  
20 want Town and Country, which we all care deeply about, to become a national chain shopping  
21 center. Within the zoning right now that is an option that can occur.

22  
23 The worst case that I'm trying to highlight for you before we move down the road here is that  
24 we can't survive this to wait for a Citywide zoning look and a Citywide process. We fear that our  
25 in the red shopping center could push us to not be able to continue to pay for it and therefore,  
26 lose it to a bank or have to sell it to a national shopping center who will turn it into the mini  
27 shopping centers that are irrelevant and unattractive. So, I encourage you to trust us here as  
28 the curators for the last 15 years from the dark days of Town and Country and trust that our...  
29 that balance that we will find with the merchandizing mix with the flexibility that hopefully, you  
30 have the vision to give us, will bring us to a better day at Town and Country without sacrificing  
31 [unintelligible – audio cut out]. So, it's a complicated time and a complicated business. I know  
32 you're all weighing this but understand that we want to be the curators of Town and Country  
33 for another 15 years and that may not necessarily happen if we can't have some flexibility here.

34  
35 Chair Hechtman: Commissioner Alcheck.

36  
37 Commissioner Alcheck: Thank you, Chair. So, I feel like there's some common ground here  
38 between me and Commissioner Lauing. I want to sort of highlight something. I do think that  
39 there's less demand for retail. I think it's inaccurate to suggest that it's just a changing  
40 landscape. I think it's a diminishing landscape and it's true, there are new businesses that have

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1 replaced the store fronts of United Airlines. And those businesses are for many shockingly  
2 profitable, but there are fewer of them. And I think I... what I would like to do is have our PTC  
3 preserve some credibility by acknowledging that there is a change in the retail landscape and  
4 that's been happening for decades.

5  
6 And one of the issues that I'm hearing from the applicants tonight is that COVID is causing them  
7 a problem. What I would suggest to them if they had come 3 years ago would be like maybe it's  
8 time for mixed-use. That's a challenging suggestion now because what can you do about it  
9 now? Nothing, but that site is, in my opinion, an attractive housing solution. Not solely housing  
10 but a mixed-use housing site. Far more attractive than many and that's in essence neither here  
11 nor there now. If the issue is COVID then what I would suggest we do is, and time is of the  
12 essence, is figure out ways to address the challenges you're experiencing. That... I know of a  
13 commercial property owner in Southern California who converted 10 of his suits into studios for  
14 the use of essentially online... for someone to do an online exercise class. An online whatever.  
15 They want... this... granted, this is LA, people are used to cameras but the idea here is the City  
16 didn't stand in the way of this landlord from getting permits of occupancy quickly. Look, the  
17 question is, is there something we can do as a City which will allow you to make use of this  
18 space in a COVID-friendly way that will address some of these issues?

19  
20 I don't personally feel like the City should step in for the federal government who should be  
21 essentially exercising some support here of your businesses so that they can pay their rent. I  
22 mean the businesses that you have, I don't know to what extent that they applied for the PPP  
23 Program or the... yeah, the PPP Program. What to extend they've applied for small business  
24 loan assistance, but in a more perfect world they would have applied for that and they would  
25 have allocated some of that funds to your guys in an effort to weather their storm. The  
26 question is, is maybe some of those businesses looked at this and they said, not only can we not  
27 weather this particular challenge but we can't even operate in the landscape that current retail  
28 is, and that is an unfortunate mix. I know of retail centers that have multiple exercise  
29 companies; á la Orange Theory; á la yoga something. You know you can imagine and they are...  
30 they're struggling with the business model entirely and so I get it.

31  
32 I just think that the question... if for example, the City had a process, and I think they do, for if  
33 you had a chiropractor who wanted to lease some space and the City could review it and  
34 consider it as a one-off. I think that would be more appropriate. I don't know that considering  
35 the straight transition of 30, 20 or however much percentage of your current space into  
36 medical office is the best tactic. I think sometimes communities will evaluate this threshold. Oh,  
37 we've gotten too many nail salons on this block. We have to put an end to it. I mean maybe  
38 there is a number that would really change the feel and I think the City is currently in a position  
39 to exercise that sort of dominant control if you will and to decide one by one. You get a lease,  
40 let's consider it, and I know that that's crazy because who's going to waste their time

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1 negotiating a lease with your guys if there's a Citywide process. I get it. We have put ourselves  
2 in a tough situation because nobody thinks we can operate quickly in this City to facilitate the  
3 pace of business that we need to operate in.  
4

5 So, I appreciate the comment that you made that you cannot wait for a Citywide process. I  
6 know, it is a disturbing fact that our City can't address its challenges in a timely fashion.  
7 Particularly when it comes to zoning and I'm not sure how to respond to that. That is a very  
8 valid point and I don't know how to address it.  
9

10 I do think that I'm sure that there are plenty of rules that are impacting the way maybe some of  
11 your businesses are doing business and maybe there's a scenario where your salons can  
12 operate with pop-up tents outside and we can cut away some parking. I don't know and frankly,  
13 to be totally honest with you, when we talked about California Avenue several years ago and I  
14 advocated very strongly for a limit on retailers with more than 10 locations in the state. And  
15 that is a formula that's been used in Haze Valley for example in San Francisco and I believe that  
16 that would add to the sort of boutique and Town and Country kind of vibe, but you know the  
17 City didn't exercise that sort of control. They just didn't and I feel like if a national retailer will  
18 help you survive this then go get a national retailer and it's the City's... if the community doesn't  
19 appreciate that national retailer as much, well that's on us. These national retailers are  
20 succeeding because there's consumer demand and it's very likely that in 10 or 15 years there  
21 won't be anything but these national retailers. So, if there's a formula that will allow you to  
22 experience success there I think you should pursue it. And the formula of allowing the  
23 conversion of medical office, I think if there was a route that could be more piece mill and  
24 nuanced and allow the Staff to review it and take it to, I don't know, some sort of quick review  
25 by Council. Maybe the right advice would be hey Council, why don't you consider some fast act  
26 process of review for I don't know what it would be called. Would it be a Conditional Use  
27 Permit to allow a medical office to occupy one of your spaces? I don't know if that's the... if  
28 Staff could sort of illuminate but (interrupted)  
29

30 Mr. Ellis: I'm sorry to interrupt but please understand we're asking for only 15 percent of these  
31 retail-oriented medical uses on the ground floor. That doesn't circumvent the CUP process. We  
32 have to go through a CUP on every single tenant. We have been working for 15 years to create  
33 and curate this tenant makeup at Town and Country. Is there something about... is there  
34 anyone on this Commission that thinks we have not done a good job of that? Have we not  
35 earned the trust of the community [unintelligible – audio disturbance] the decisions we've  
36 made? (interrupted)  
37

38 Chair Hechtman: Mr. Ellis I'm going to (interrupted)  
39

40 Mr. Ellis: [unintelligible] (interrupted)

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Chair Hechtman: Sorry, I appreciate your comments. I'm going to pull it back to the Commission. Mr. Ellis (interrupted)

Commissioner Alcheck: Let me just... let me... I'll just respond quickly and say I fully appreciate and I hold in high regard the management of this Town and Country. I think that what you're hearing from me at least is a tremendous amount of concern that what this site represents as a retail center could dramatically change if a third of it or a quarter of it became dental and therapy. What falls in line with this sort of space and I just... I feel your pain. You need to figure out a way to run this property profitably and the... so anyways, I'll conclude.

I am not prepared yet to support this percentage concept that you've put forward Commissioner Hechtman [note – Chair Hechtman] and frankly, I just think it's a dramatic change in the concept of the site. And so, what I would suggest to you is that this is so profound in my opinion, this notion that... it's like this idea. We need to preserve retail well, where and I would put it to City Council and say well look, we feel very mixed about this. I don't think they need a recommendation of exactly what percentage we feel is appropriate. I think they need to hear that we have real concerns and those concerns have in some cases elevated a percentage model and, in some case, didn't.

Ms. Tanner: So, I just want to respond to one question that you posed. They cannot apply for Condition Use Permit for these uses. These uses are not allowed in this zone so there's no process by which they can have these uses there.

Commissioner Alcheck: No, but hold on, what I was... I don't mean to interrupt but what I was suggesting was if the Council wanted to do something, change the system. Emergency ordinance that allows Conditional Use Permits in areas that are not currently allowed. You want to do something for 6 months, that's a good one. Don't like... as opposed to permanently rezoning the site so that Conditional Use Permits can be allowed forever. Maybe when the lease is up in 5 years and that tenant moves out. We want it to go back to retail and so what I'm suggesting is I think there is a tool by which the City Council can create that would allow them to review something like this in sort of the immediate vicinity of 18 months. We will review any medical office Conditional Use Permits only for the next 9 months and then if we feel like we need to extend it, we do it again, but not forever because we're not interested in that concept forever and so that's what I was suggesting. I'm sorry to interrupt.

Ms. Tanner: The Chair, I just want to note, we do have I see two Commissioners waiting to speak. It's 8:20. I think Commissioner Summa's departure may be imminent so I just wanted to bring that to the Commissioner's attention.

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1 Chair Hechtman: Sure. Commissioner Alcheck, are you ready to yield the floor?

2

3 Commissioner Alcheck: I'm sorry, I'm done.

4

5 Chair Hechtman: Commissioner Summa you are next.

6

7 Commissioner Summa: Thank you so much. I do find myself agreeing with Commissioner  
8 Alcheck that this is too big a step in one fall swoop and too permanent to really address the  
9 problem the right way in my opinion. And we already... I just read that the French Mecca All  
10 [note – phonetics] store, pardon my French pronunciation, on University just reopened. So, I  
11 see signs of life and I don't consider Town and Country Shopping Center to have the same  
12 problems that abandoned strip malls do in other Cities and other places. It is a... and not that  
13 we should only have high-end retail but it is a high-end retail place and virtually everything that  
14 is sold there with very few exceptions I can buy online. Sur La Table I can buy online; Cook Lock  
15 I can buy online; Athleta; prAna. A lot of these are small versions of things that are available  
16 online and yet people go there for the experience. I worry that the cure is going to be worse  
17 than the sickness and it's also a sickness that we're all in this together. So, I don't want to give  
18 up on you yet because... Town and Country because you've done such a brilliant job and in a  
19 uniquely superb location. So, and just antidotally, I know Florida is a very different place than  
20 California but my sister owned a 10,000... opened a 10,000 square foot restaurant in West Palm  
21 Beach 2 weeks ago and it's going gang buster. So, there is a yearning for people to go out into  
22 the world that I'm hoping will happen sooner than later. So, I would like to help the applicant  
23 find a better way. I'm with Commissioner Alcheck on this. I think there's a better way to do this  
24 that wouldn't be as permanent and would have more flexibility and I'm really concerned about  
25 having medical office in this location when we have basically a very large medical facility right  
26 next door and a huge medical facility a quarter of a mile away. I'm worried that long term it will  
27 kill what is special about Town and Country and that it's a bit redundant. So, at this time and I  
28 may not... I will have to go but not for a while so I don't think it's a right solution. So, I'm really  
29 struggling because I really want to find a way to help the applicate but so I will leave it at that  
30 for now. Thank you.

31

32 Chair Hechtman: Thank you. Chair Templeton... I'm sorry, Commissioner Templeton.

33

34 Commissioner Templeton: Thank you so much, Chair Hechtman. So, I want to weigh in on some  
35 of the discussion that I've heard and I want to start by acknowledging that the applicant has  
36 described themselves as curators of this space. They have demonstrated an ability to  
37 understand the market, especially this specific local market, and to create an experience that  
38 our City has treasured so much that we have this special zoning experience for them that  
39 causes us to be here today. So, I just want to acknowledge that and say that I hear you and I  
40 understand that there's some really unique factors that are driving us to have this conversation.

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I would also like to acknowledge the idea of long-term envisioning land use for that space. That it may be quite different 20, 30, 50 years from now. I think that's great. That is not agendized tonight. I'd be happy to participate in that conversation. I think there's a lot of... sounds like some energy here on this Commission to discuss it. I'd be happy to participate in that at the appropriate time.

As for what's in front of us here tonight, we have an application to expand the types of office use and the amount of office uses. As for the types of office use, what could be more appropriate post-COVID than our health. We may find that that is a trend in retail that could be appropriate. This could be a trend headwind coming in that our applicant may have caught on. We don't know and it's not necessarily our business to evaluate their business. We are talking about the kinds of uses and so I want to just kind of focus our conversation back a little bit on that to also take a close look at the types of medical uses. We don't have a lot of language here to discern between the types of doctor's offices that are available at Stanford or next door at Sutter. We only have medical office language. We don't have a way to be more specific but if you look at the slide that the applicant presented. What they are envisioning are just the same kind of boutique and custom services that the Town and Country experience has been bringing us for the last decade and a half. So, I don't feel like this is farfetched. I think that we are dealing with a language issue and because they respect the laws of our City. They have come to us and said can we please expand it because we have some ideas of how we can be... continue to be a thriving part of this City.

So, for me, I'm comfortable going further and exploring this. I think that there's a lot of opportunity here that would be beneficial to the City. It would allow the owner to use the land in the way that they think will suit their business and we can all benefit as a community from that. So, that's my two-sense worth. I just wanted to put that out there. Thank you very much.

Chair Hechtman: I don't really have anything more to add than what I've provided before. It indicated my... the direction I'd like to see us go and I've also indicated that I am interested in a longer-term, a more comprehensive project, but not as a reason to say no to the application before us. So, I won't belabor that. I'd like to see if anyone is ready to make a motion. Let's see, Commissioner Templeton I think your hand is still up from your remarks, or did you re-raise it?

Commissioner Templeton: Well, I was just trying to find the raise my hand button. I'm happy to move the Staff motion. The reason I'm holding back a bit is that you had some customizations that if you'd rather make the motion with your changes you're welcome too.

Ms. Tanner: Sounds like maybe Commissioner Templeton, you wanted to move a motion that would include that no use be greater than 5,000 square feet and I think Commissioner

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1 Hechtman had proposed a 25.7. I forget if it's 7 or 6 maximum... I'm just looking... maximum  
2 size. Was that correct Commissioner or Chair Hechtman? So, I am not sure who would like to be  
3 on record as that being the motion if that is the motion.

4  
5 Chair Hechtman: Templeton, is that the motion you're making, or would you?

6  
7 Commissioner Templeton: Commissioner Hechtman [note – Chair Hechtman] I was offering to  
8 make the Staff motion and I'm happy to hold back on that if you wanted to make your more  
9 detailed motion which I did not take notes on. Sorry, you're on mute sir.

10  
11 MOTION #1

12  
13 Chair Hechtman: I guess I will make a more detailed motion and one of the reasons why is when  
14 I look at the Staff recommended motion, in addition to the meeting the 5,000 and the change  
15 from 25 to 25.7. I think there's a language glitch in the motion where the 25 percent of the  
16 total floor area is then limited to medical office use and I think I need some help... if there's  
17 going to be a motion to approve anything. I think there needs to be a clarification here that  
18 what we're talking about is allowing 15 percent medical office use downstairs. Upstairs, which  
19 is currently allowed office use, that's the more general category, not limited to medical office,  
20 that would remain. And so, the problem I have with the Staff recommended language is I think  
21 it's misleading in that it refers to medical office use after the 25 percent. So, I guess let me try a  
22 motion then that accounts for that and I'm sorry if it's a little wordy.

23  
24 I move that the Planning and Transportation Committee... Commission recommend that City  
25 Council adopt an ordinance similar to what's attached which amends Chapter 18.16 and  
26 Chapter 18.40 of the Municipal Code to allow up to 15 percent of the ground floor area to be  
27 converted from a retail or retail-like use to a medical office use and allows, subject to that  
28 limitation, no more than 25.7 percent of the total floor area at the Town and Country Village to  
29 be in office use; and to further modify... sorry, I've got to get to the ordinance... Section  
30 18.16.050 to provide that individual ground floor medical office uses shall be no more than  
31 5,000 square feet in size.

32  
33 SECOND

34  
35 Commissioner Templeton: Chair, I'm happy to second your motion.

36  
37 Chair Hechtman: I don't need to... I don't feel the need to speak any further to the motion. I  
38 think I've made my views clear. Commissioner Templeton, do you wish to speak to your  
39 second?

40

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1 Commissioner Templeton: No, only to add that for the other Commissioners, if you felt that we  
2 needed to have a time-bound or some kind of circle back in order for you to support the  
3 motion. Then maybe you could make an amendment.

4  
5 Chair Hechtman: [unintelligible – no audio] that. Commissioner Alcheck, I see your hand next.

6  
7 FRIENDLY AMENDMENT

8  
9 Commissioner Alcheck: I'd like to think that you need my support here. Let me suggest a  
10 friendly amendment or an amendment that I hope you will accept as friendly. I would add... ok,  
11 first I just want to address one thing which is that what we do tonight is precedent-setting and I  
12 don't think it should be considered personal. So, I say that because I want to make clear that I  
13 don't know the applicants and I want to make sure that what we would do tonight we would do  
14 for any retail center in Palo Alto. And I think it would be problematic if we didn't actually  
15 consider this because they're coming. By the way, anybody that's on this Commission should  
16 know that the minute we finish here, you're going to get an application from Edgewood Plaza.  
17 You're going to get an... it's going to come from everywhere. And so, and by the way, I say that  
18 having already said that not every one of these sites should be preserved as retail. So, in my  
19 opinion, some are worth... are less important [unintelligible].

20  
21 So, here's my amendment, I hope you will accept it. Everything you just said with the additional  
22 line as long as the lease is signed in 2021. If they want to sign a 5-year lease, great. If they want  
23 to sign a 10- or 15-year lease, it's their ballgame, but if the lease is signed in 2021 it can go  
24 through this process. Once the calendar year 2021 is over, that's it. Know that space isn't going  
25 to get re-leased under this process again. If this a way for them to get through the pandemic,  
26 great and I say this in response to Commissioner Templeton. This concept of alternative uses is  
27 not 2050, it's not 2040, it's tomorrow. The conversation about whether or not an applicant or  
28 an owner of a property like this should come forward with a housing opportunity is now. Those  
29 conversations should be happening now if we want them to make life better in 2040.

30  
31 So, I would like to suggest to you that this is a dramatic change and I would support this motion  
32 if it allowed these uses only if leases were signed... only for leases signed in 2021 which would  
33 mean when the space... let's say the lease terminates in 5 years. That space could not be re-  
34 leased to some new medical office at that time because that use is essentially not a permissible  
35 use. It was a one-time conditional use for the purposes of weathering the pandemic. The  
36 assumption here, by the way, is that these two gentlemen and their company have some group  
37 of people who are ready and waiting to flush them with some money and lease the space  
38 immediately.

39

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1 If for example, this medical office space didn't fully lease up for 2 or 3 years, then that money  
2 will not have helped weather this pandemic situation because I believe this pandemic situation  
3 will... the challenges of the pandemic specifically will be lifted. And then it will just be retail  
4 challenges to which we... those challenges deserve a different review. So, I would be willing to  
5 support this on the condition that it is for the purposes of leases signed in 2021 only.

6  
7 Chair Hechtman: Commissioner Alcheck, is it acceptable to you if we... if I wait to respond to  
8 your proposed amendment until I hear from the other Commissioners who have their hands  
9 up?

10  
11 Commissioner Alcheck: Sure, absolutely.

12  
13 Chair Hechtman: Thank you. Commissioner Summa.

14  
15 Commissioner Summa: I think you said, Commissioner Summa?

16  
17 Chair Hechtman: I did. I'm sorry.

18  
19 Commissioner Summa: Thank you. I have to go immediately. They're running ahead of  
20 schedule. I suggest and I agree with Commissioner Alcheck. This is game-changing and I feel  
21 what we could do right now that would be most prudent would be to vote to continue this. We  
22 have not dealt with zoning and uses in the context of a pandemic before and I think this  
23 deserves a little bit more time. And I wonder if anybody would consider that continuing it to a  
24 date certain or as soon as possible or even... I just think we're rushing this and I think we could  
25 all think about it. It's a situation we're not familiar with because I can't support the motion. I  
26 think Commissioner Alcheck's amendment is quite interesting but I still worry about lease terms  
27 of 5-years with renewal options and I also wanted to talk more about the unit size at 5,000-  
28 square feet. So, I'm feeling really rushed, so it anybody else... would anybody be interested in  
29 dialing this back for this evening and getting it back here as soon as possible by continuing this?

30  
31 Commissioner Lauing: If that's a motion, I would second it.

32  
33 Commissioner Summa: Well, I can't make a substitute motion because we don't have them  
34 anymore and certainly (interrupted)

35  
36 Commissioner Lauing: If it's a continuance, you can. You can move a continuance.

37  
38 MOTION #2

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40 Commissioner Summa: Ok, I move a continuance.

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SECOND

Commissioner Lauing: And in terms of my second, the reason other than we're leaving or we're losing a Commissioner so we're down to four people.

Chair Hechtman: But we're not. Just to clarify, before you joined us tonight, we... I informed the Commission and public that when Commissioner Summa departs for her interview. we're going to take a longer than usual break so she is not going to miss the discussion.

Commissioner Lauing: Ok, I didn't know that. Ok. Yeah, I think we're basically changing the Retail Preservation Ordinance in this space kind of on the fly and that is disturbing to me. It's still permanent with Commissioner Alcheck's amendment. It's still a permanent, not a temporary. So, as I understood his amendment the lease to the tenant could be renewed, it just couldn't be turned over to a new tenant. If it... so that needs clarification, but I guess my other concern is that a continuance, even if a week, I mean I would be happy to do a special meeting on this, would allow maybe some off meeting discussion with the applicant because it sounds to me like what's being said is that if you don't do this, to let medical office in now. We don't have enough time and we're likely going to shut down Town and Country. That's pretty scary. So, I mean that needs some clarification I think before we're just on the spur of the moment going there. So (interrupted)

Chair Hechtman: Commissioner Summa?

Commissioner Lauing: That's why I'd support a continuance.

Chair Hechtman: Commissioner Summa, do you need to depart now?

Commissioner Summa: Yes.

Chair Hechtman: Ok, then (interrupted)

Ms. Tanner: I think, sorry, Commissioner Summa, I was just messaging with the clerk. She said they could wait a minute. I don't know how close you are to voting on the motion that's been made. I know there was some discussion so it may end up having to do that.

Chair Hechtman: I want Commissioner Summa to have a few minutes to collect herself and get ready so and I think even if they put it off by a minute or so. So, I'm going to say we're going to take a break now, and then Commissioner Summa, what time are they... when do you expect to be back with us? 9:00 o'clock?

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Commissioner Summa: They're scheduled for 15-minutes and the clerk says they've been running a little short of 10-minutes. So, I will be back to you as soon as possible.

Chair Hechtman: Well, I'm going to break us until 9 o'clock. That's... I got about 18-minutes from now.

Commissioner Summa: Ok.

Chair Hechtman: At 9 o'clock we'll reconvene. Alright, thank you.

Commissioner Summa: Thank you very much.

[The Commission took a break]

Chair Hechtman: Commissioner Summa is back. It looks like we have our... tonight's full complement of Commissioners and so let's resume the meeting. And I want to thank the attendees and Staff for holding on through the lengthier than usual break.

So, just to recap where we are at this moment on this Agenda Item Number Two. We have a substantive motion on the floor with a proposed amendment pending. We have a procedural motion on the floor and I have... see two Commissioner hands up. Lauing and Alcheck. I'm not sure if Commissioner Lauing's hand is still up from before the break. He'll take it down if it is and before I call on Commissioners, I wanted to ask a procedural question of our City Attorney Mr. Yang. To confirm for me that the procedural motion essentially takes precedent over the substantive motion. So, we would address that motion first and then depending upon the result, move to the substantive motion. Mr. Yang?

Mr. Yang: That's correct. The motion to continue needs to be voted and resolved first and then you'd return to the main motion if appropriate.

Chair Hechtman: Alright, thank you. So, we have the motion from Commissioner Summa and the second from Commissioner Lauing. I see your hands still up and I did somewhat cut you off to start the break for Commissioner Summa. So, Commissioner Lauing, did you have more to say regarding your second?

Commissioner Lauing: Just briefly. Based on the stance I think from the applicant, that we're talking about if this doesn't happen then there's a high likelihood, don't want to put words in anyone's mouth, that the shopping center won't survive. I think that changes the whole discussion and debate and we need more time and it may be that Commissioner Alcheck's

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1 suggestion of an emergency ordinance is in order but it's not going to be done tonight because  
2 we would need a lot more data from the applicant to see if that's the case, or it may be even  
3 above out pay grade. And that point their financials and so on should go to the Finance  
4 Committee and Council so we got to sort that out.

5

6 Chair Hechtman: Thank you. Commissioner Alcheck.

7

8 Commissioner Alcheck: Ok, I would suggest to you that I'm not prepared to support a  
9 continuance. I think we can move this off our desk tonight and I would suggest to you that after  
10 you're done with this I would like to provide a little bit more clarity on my amendment that I  
11 hope you will consider friendly. A little more specific and then I just wanted to give you a heads  
12 up.

13

14 Chair Hechtman: Thank you. I have a question to the maker of the motion because I don't think  
15 I heard any particular timeframe in the motion to bring this back. I know in the second there  
16 was a suggestion that it could be as soon as a special meeting but I don't think it's part of the  
17 motion. Did I miss it?

18

19 Commissioner Summa: I thought I said as soon as possible.

20

21 Chair Hechtman: Alright, I still see Commissioner Lauing and Alcheck your hands are still up. Is  
22 that intended? Nope? Ok. Commissioner Templeton, did you want to speak to this procedural  
23 motion?

24

25 Commissioner Templeton: Yeah, just to say I'm prepared to finish... to complete this item  
26 tonight so I won't be supporting the continuance.

27

28 Chair Hechtman: Alright, seeing no further hands, Mr. Nguyen, will you call the vote, please?

29

30 VOTE ON MOTION #2

31

32 Mr. Nguyen: Yes. Commissioner Hechtman [note – Chair Hechtman]?

33

34 Chair Hechtman: No.

35

36 Mr. Nguyen: Commissioner Alcheck?

37

38 Commissioner Alcheck: Nay.

39

40 Mr. Nguyen: Commissioner Lauing?

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Commissioner Lauing: Yes.

Mr. Nguyen: Vice-Chair Roohparvar is absent. Commissioner Summa?

Commissioner Summa: Yes.

Mr. Nguyen: Commissioner Templeton?

Commissioner Templeton: No.

Mr. Nguyen: Ok, the motion does not carry.

MOTION #2 FAILED 2(Lauing, Summa) - 3(Alcheck, Hechtman, Templeton)- 1(Roohparvar absent)

Chair Hechtman: Alright, Commissioner Alcheck, did you want to clarify your amendment?

FRIENDLY AMENDMENT RESTATED

Commissioner Alcheck: Yes, so let me try to be a little bit more concise. The purpose of this amendment is two-fold and so I'm going to amend it slightly. I would like to suggest that first of all, this is a recommendation. So, we're not drafting an ordinance tonight. We're making a recommendation that Council consider the following and so in that recommendation, I would suggest number one, that is apply only for leases signed in 2021. If it's a 5-year lease, great. I would exclude extensions, so maybe the correct language would be it applies only to leases for a maximum of, I would be open to your thoughts here, 5? 10-years maximum? The idea being whatever we're comfortable with, that they're comfortable with signing and then they can have this use for 5-years if it gets them through this struggling time.

But the second element that I would like to suggest. So, the amendment is with language that adds for lease... only for leases that are signed in 2021 for a maximum of 10-years with no extensions and... but I'm open to slight variations. Maybe even 5-years. I would actually be more open to 5-years so let me change that. For... no, forget it. For leases that are signed in 2021 for a maximum of 10-years and then the second component I would suggest to you is that Council, in considering this, appreciate its application to all retail sites in the City. That it will be very difficult for the Planning Commission to review other applications by other retail sites in... treating them any differently. So, I guess the recommendation would be like if you are entertaining... what was the percentage you chose? 20 something percent? Then that would be an option that any retail site could pursue 26 percent of their property that's currently vacant.

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1 They could begin to exercise medical office use and I'm not trying to insert a poison pill here.  
2 I'm trying to suggest to you that the recommendation essentially implying that this can't be an  
3 approach that we only apply to the first person that came to us. It needs to be something that  
4 we're comfortable doing for all retail sites in the City which I hope they will take great care to  
5 review.

6  
7 So, the first is only for leases that are signed in the calendar year 2021 for a maximum of 10-  
8 years. So, any lease signed in 2022 would not be able to enjoy this benefit. So, if they didn't fill  
9 their 26 percent with 10-years leases then presumably that area would return to retail sooner.  
10 And then the second component would be that we recommend that Council consider the  
11 application of this exact sort of flexibility to any retail site in the City. Those are the two... those  
12 can be separate. Those are the two additions I would like to make to your motion. I know that  
13 didn't sound clear but it's my best attempt.

14  
15 Chair Hechtman: So, Commissioner Templeton is the seconder of the original motion. Do you  
16 want to weigh in before I do as the maker of the motion on the proposed amendments?

17  
18 Commissioner Templeton: I'd like to hear your thoughts. I mean I'm open... I guess I'll say this.  
19 My hope with supporting this motion is to close the gap between this application and the Staff  
20 coming back with a recommendation for more retail broader discussion that they said that  
21 would come back later this year. So, Commissioner Alcheck's suggestions seem to align with  
22 that. I'd be ok with it. I'd like to hear your thoughts as well.

23  
24 Chair Hechtman: Right so let me break it down into the two components. While not ideal, I  
25 would be willing to accept the amendment limiting these leases to those that can be signed in  
26 the next 10 ½ months by the end of 2021. I really don't like the 5-year term because from my  
27 experience in leasing, a lot of tenants are looking at a time horizon. They are banking on a 5-  
28 years option or a series of 5-year options to amortize their investment and I think that could  
29 really be true for medical office. So, it seems like that time limit... again, as long as it's built into  
30 the original lease, I would want that to be honored because I'm afraid if we give them just 5-  
31 year leases, we will chase away half the tenants who might otherwise sign leases in 2021 and  
32 I'm speculating there but that's my reasoning. So (interrupted)

33  
34 Commissioner Alcheck: I think I clarified that 10 was my number but I know I said 5 as well, but I  
35 think my final time I said 10 or less.

36  
37 Chair Hechtman: And then the... and what I'm saying is my... I'd be more comfortable accepting  
38 that first prong if it wasn't time-limited as long as it's built into the first lease. On the second  
39 prong, the concern I have is if you're creating kind of a blanket rule, a one-size-fits-all, then  
40 you'd have to make it match Town and Country. And so, it wouldn't be 25.7 percent of your

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1 shopping center. It would be 15 percent of the ground floor of your shopping center can be  
2 medical office and 100 percent or I guess it would be whatever the square footage is. You know  
3 12.7... 12.7... no, yeah... [unintelligible](interrupted)

4  
5 Commissioner Alcheck: Ok, hold on, let me just suggest, could it just be the addition of  
6 language that says please provide guidance as to how this could apply to other retail properties  
7 throughout the City because equity there is important to the Commission? Would that  
8 language be enough for you?

9  
10 Chair Hechtman: Yeah, so I would accept that as the second prong. Can we revisit your  
11 durational limit on the first prong?

12  
13 Commissioner Alcheck: I agree with you that a TI and a build-out is challenging to sell. This is my  
14 theory, the rates to be so low right now in these spaces that it's hard for me to believe that  
15 they would want to make a 20-year lease. To what extent do they want to tie themselves to the  
16 numbers that are currently out there? So, my theory is that if they were to sign a lease for 5-  
17 years which is probably preferred to 10, they would want to have some language in there that  
18 resets the rents to market or whatnot at the renewal rate. So, that's a negotiation they have to  
19 do with whoever they're trying to get into the space and there's a lot there.

20  
21 And what I'm suggesting to you is I don't want to force... I want to provide them... I want to...  
22 not them because it's really irrelevant who they are. I want to be... I want the City to be  
23 sensitive to this pandemic issue. If there's someone that can occupy a space and pay them  
24 some rent beginning this year, I don't want to stand in the way of that. Especially if the store's...  
25 the space is going to remain empty for the next 2 or 3 years so I want to be responsive to that.  
26 My concern is, is that I think the landscape for renting is going to be dramatically different in 5-  
27 years and frankly, I think when that time comes they can always ask the City hey, can we get  
28 permission to extend this space and they can use the next 5-years to try to secure that, right?  
29 And we can begin the process of reviewing what we really want to do Citywide with respect to  
30 preservation of retail and it gives us the time and gives them the time to figure it out. And it  
31 might be a risk that somebody will have to take but I think I... I think my maximum would be 10-  
32 years. And I think if... dental probably won't build-out, but there are other medical office;  
33 therapy, chiropractors. I mean there's other versions of this that I think would apply so or it's  
34 therapy. I don't know.

35  
36 Chair Hechtman: Alright, so as the maker of the motion I'm willing to accept the amendment as  
37 clarified and I'll speak to that if the seconder of the motion is also of the same mind.

38  
39 Commissioner Templeton: Yes, I am.

40

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1 Chair Hechtman: So (interrupted)

2

3 Ms. Tanner: Can I ask for a restating of that just to make sure I captured what the new  
4 amendments are? Is it a 10-year maximum lease? Yes?

5

6 Commissioner Alcheck: I was suggesting leases that were signed in 2021 and for a maximum  
7 term of 10-years.

8

9 Ms. Tanner: And that the City Council consider how this would apply to other retail sites?

10

11 Commissioner Alcheck: That the City... and that we request that the City Council provide  
12 guidance on how this would apply to other retail sites in the City throughout the City because  
13 the Commission considers the equity of this unique solution for Town and Country... I don't  
14 know.

15

16 Ms. Tanner: I will say just that it is unique. There are not that many properties zoned CC.  
17 There's this property and the Stanford Shopping Center. So, the zoning requirements and what  
18 can happen at every retail location in the City are not the same and they're not the same for  
19 this site.

20

21 Commissioner Alcheck: No, I guess what I'm trying to say is if Edgewood Shopping Center says  
22 we can't fill Orange Theory, what do we do? If they want to have a conversation about that, I  
23 just I would like the City Council to provide more than just a review of this item. I hope that  
24 they will provide some... my request is that the City Council consider that the Planning  
25 Commission wishes to get greater guidance Citywide on flexibility regarding uses in retail-  
26 specific sites. It's hard to do.

27

28 Chair Hechtman: Is that clear for you, Ms. Tanner?

29

30 Ms. Tanner: Yes, thank you Chair.

31

32 Chair Hechtman: Ok. Alright, so (interrupted)

33

34 Commissioner Templeton: And just to throw in one more thing out there, I think Commissioner  
35 Alcheck meant to include this... you mean as part of our pandemic economic response? Like  
36 (interrupted)

37

38 Commissioner Alcheck: Yeah, I'm (interrupted)

39

40 Commissioner Templeton: Yes.

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Commissioner Alcheck: Going to assume that this is going to be a very unique ordinance if they were to pass it the way we're recommending and the idea there is that if you're willing to accept what I consider the most important retail outside of downtown and Cal Ave to have flexibility. Then how will you approach other sites that are looking for flexibility in this particular '20-'21 moment. And that's my big concern is that the Retail Preservation Ordinance will be a burden for all retail sites in the community except for these guys now for a certain portion of their property and I want to have that addressed.

I just... I also want to just respond to something Ed said... Commissioner Lauing said earlier which is I don't believe this is a situation where tomorrow this complex gets closed. So, I'm not making this decision because I believe that if we don't do it, Town and Country will get shut down. I do not believe that. I believe Town and Country will continue to operate and it will be operated by whoever is capable of operating it until the leases that are currently there expire. And so, I'm making... I'm just making... I'm making this recommendation on the basis that Council should consider this solution. Not that this is the best solution.

Chair Hechtman: In that, I'll speak to my willingness to accept the amendment as refined. Again, I believe it's not ideal but I think that it is much better to forward this matter to the City Council with a positive vote that provides relief and also informs the Council that the problem doesn't stop at the boundaries of Town and Country so I like that approach. Commissioner Summa, I see your hand up so let me take you first. Also, Mr. Ellis, I do see your hand up and I'll address that in a minute after Commissioner Summa.

Commissioner Summa: Thank you. Just to the second point which now is City Council provide guidance to apply this same method, however, it was worded. Is the intention of that, that the... that medical office would be the solution to vacancy issues in retail... ground floor retail Citywide, or is it just... it's only medical that we're referring to in the second bullet; medical office as a solution. Or am I... because... and the reason I ask this partially is because while it was the preferred option for the applicant at Town and Country. I don't know if it's going to be the answer everywhere across the City so I just wanted to clarify that. Was that the intention?

Commissioner Alcheck: To be honest, I think the way that Chair Hechtman summarized it at the end was perfect. The idea wasn't to suggest that they have to apply it everywhere equally or something. The idea was and he summarized it really well which was that this problem doesn't end at the boundaries of Town and Country. And the... in passing this very unique timed ordinance or time ordinance? Excuse me, timed approving this application that they should have a conversation during this same discussion about what... well, how does flexibility with respect to the retail uses all over the City, how is that relevant to the discussion too? I'm not suggesting medical offices solve all problems. I'm saying these problems don't end at the

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1 boundaries of Town and Country and I'm uncomfortable creating a Town and Country specific  
2 solution. And I hope that the City Council in reviewing this item will consider an approach that  
3 doesn't just include Town and Country. That provides broader guidance to all retail sites in the  
4 community with respect to flexibility during this period of time.

5  
6 Commissioner Summa: Thank you.

7  
8 Commissioner Alcheck: The '20 to '21 time, sorry.

9  
10 Chair Hechtman: Commissioner Templeton.

11  
12 Commissioner Templeton: Thank you. I just want to clarify that I think that we're aligning  
13 ourselves and reflecting ourselves back to the Council when we ask for that because they did  
14 instruct Staff to come back to us later this year with more overarching guidance. So, I think it's  
15 just acknowledging that. So, I think it's helpful to include that and say yes, we know we're going  
16 to come back and have some potential changes that reflect the economic necessities of our  
17 pandemic response. So, I'm comfortable including it for that reason.

18  
19 Chair Hechtman: So, Mr. Ellis has his hand up. Normally, once we close the public hearing we're  
20 in our deliberation, we wouldn't acknowledge the applicant again or take that step. However,  
21 here we have in our deliberation really proposed a term as part of the amendment, the friendly  
22 amendment that's been accepted, a business term that was not part of the proposal and was  
23 not part of the Staff recommendation. And the applicant really would have had no opportunity  
24 to comment on it. No reason to think they should but I think we should know their view on  
25 that. They may know that there's a reason it's unworkable that we aren't aware of or maybe  
26 they'll want to let us know that they can accept it. So, I would like to recognize Mr. Ellis and Mr.  
27 Yang, to do that do I need to... do I need to reopen the public hearing?

28  
29 Mr. Yang: No, I think from... really this entire item is the public hearing and so there's a public  
30 comment portion of the public hearing and you don't have to... you're not really formally  
31 reopening up the public hearing. You can just recognize the application.

32  
33 Chair Hechtman: Ok, then I would like to call on Mr. Ellis but I would like to Mr. Ellis to limit  
34 your... the focus of your comment to answering this question. What is the applicant's view of  
35 this amendment? The first prong of the amendment that would limit you to the leases signed in  
36 '21 for a duration of no more than 10-years.

37  
38 Mr. Ellis: Thank you, Commissioner Hechtman [**note – Chair Hechtman**]. Going back to your  
39 point that you made about being able to amortize the cost of improvements over an acceptable  
40 period of time. These medical uses do require a very large amount of capital expenditure and it

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1 cannot be justified over 10-years in most cases. So, I would respectfully request of the  
2 Commission to consider that the minimum term that would allow us to do any leasing on this  
3 revised proposal would be 15-years and the logic for that is that no tenant is going to be willing  
4 to amortize it over a period less than that. So, that was one comment I have.

5  
6 The second comment is to respectfully request that we be given 12-months from the date of  
7 adoption of this Text Amendment in order to obtain a signed lease from a medical use. Thank  
8 you.

9  
10 Chair Hechtman: Mr. Ellis does raise a point that I wasn't considering. We don't know how soon  
11 this will get to Council and be addressed by Council. So, what appears to be 10 ½ months right  
12 now may be appreciably less than that. Mr. Alcheck, I will ask you as the maker of the  
13 amendment if you're persuaded to make any changes to your amendment?

14  
15 Commissioner Alcheck: Yeah, ok, look, this is a solution that's immediate for an immediate  
16 challenge. So, my suggestion to the applicant would be to begin the process of engaging in a  
17 dialog with City Council or Staff for that matter on how you can preserve this space in excess of  
18 the 10-years that I'm willing to support it now.

19  
20 I agree with you. There are some mix of tenants that won't be able to accept such a lease. I  
21 would also argue that whatever build-out that would require is a solution that probably  
22 wouldn't begin paying rent until next year. And so, the whole goal here is the idea that you  
23 might be able to get somebody in that space that can begin paying rent this summer. Not in the  
24 second half of 2022 and I believe that if you had a really large build-out, that would take 3 to 4  
25 months to get through the City anyways. And what I'm hearing from you is that you need help  
26 now and so I cannot hold both of these concepts in my mind, unfortunately. I cannot accept the  
27 notion that there's a build-out that would take so long and be so expensive that could  
28 theoretically only get signed in the second... the beginning of next year that would somehow  
29 serve to bolster your financial position right now.

30  
31 And so again, we're not writing the ordinance from this Commission. We're making a  
32 recommendation to Council and so what I would suggest to you is that you take that comment  
33 and those concerns to Council and share it with them. I'm not... I do not... I'm not failing to  
34 appreciate what you're saying. I think that the value of this property would be significantly  
35 higher with more flexibility forever but I'm not prepared to support that tonight. And I hope  
36 that the solution that's before us will help you get over your hurdles now, not next year.

37  
38 Next year I think we need to review this differently and my hope is that when this comes back  
39 to us we talk about retail preservation Citywide so.

40

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1 Chair Hechtman: So, no change to the amendment. [unintelligible](interrupted)

2

3 Commissioner Alcheck: I don't want to make... again (interrupted)

4

5 Chair Hechtman: Fine.

6

7 Commissioner Alcheck: It's not an ordinance. I think we should just move it on and that those  
8 comments can go to Council.

9

10 VOTE

11

12 Chair Hechtman: Perfect. [unintelligible – no audio] fine with that. So, we have a motion, we  
13 have a second, amendment that has been accepted and I think we're ready to vote. Mr.  
14 Nguyen?

15

16 Mr. Nguyen: Yes. Commissioner Alcheck?

17

18 Commissioner Alcheck: Aye.

19

20 Mr. Nguyen: Chair Hechtman?

21

22 Chair Hechtman: Aye.

23

24 Mr. Nguyen: Commissioner Lauing?

25

26 Commissioner Lauing: No.

27

28 Mr. Nguyen: Vice-Chair Roohparvar is absent. Commissioner Summa?

29

30 Commissioner Summa: No.

31

32 Commissioner Summa: Commissioner Templeton?

33

34 Commissioner Templeton: Yes.

35

36 MOTION #1 PASSED 3(Alcheck, Hechtman, Templeton) -2(Lauing, Summa) -1 (Roohparvar  
37 absent)

38

39 Mr. Nguyen: The motion carries 3-2-1.

40

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1 Chair Hechtman: Great, thank you, everyone.

2

3 Commissioner Templeton: I'm sorry, where's the one? Who abstained?

4

5 Ms. Tanner: One absent.

6

7 Chair Hechtman: One absent. Vice-Chair Roohparvar.

8

9 Commissioner Templeton: That's different than abstention though, right? Ah, it's fine,  
10 whatever.

11 **Commission Action**: Motion by Summa, seconded by Lauing. Fail 2-3 (Alcheck, Hechtman,  
12 Templeton against)

13 **Commission Action**: Motion by Hechtman, seconded by Templeton. Pass 3-2 (Lauing and  
14 Summa against)

15 3. PUBLIC HEARING/LEGISLATIVE: Review and Discuss Potential Ordinance Changes to  
16 Palo Alto Municipal Code Chapter 18.09, Accessory and Junior Accessory Dwelling  
17 Units. Environmental Assessment: Exempt from the provisions of the California  
18 Environmental Quality Act (CEQA) pursuant to Public Resources Code Section  
19 21080.17 and CEQA Guidelines sections 15061(b)(3), 15301, 15302 and 15305.

20 Chair Hechtman: We'll move now onto Action Item Number Three. Review and discuss  
21 potential ordinance changes to Palo Alto Municipal Code Chapter 18.09, Accessory and Junior  
22 Accessory Dwelling Units. Ms. Tanner (interrupted)

23

24 Ms. Rachael Tanner, Assistant Director: Great, thank you so much.

25

26 Chair Hechtman: Who will be presenting?

27

28 Ms. Tanner: Thank you. We have Garrett Sauls, our planner here, who will be presenting this.  
29 You'll recall that he came forward I guess it was last year when we had the ADU Ordinance  
30 before us. Council did pass that in the fall of last year of 2020 and that is now our law but did  
31 ask for us to take a look at some additional items and those are what will be before you this  
32 evening.

33

34 I know it is about 9:40 p.m. so just please let us know what you want to do this evening and  
35 how much you want to get through. There are about 12 items that are outlined in this item. In  
36 addition, in April we will be bringing back a set of measures that we think could help incentivize

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1 affordable ADUs, and then following that we would bring back the items that the PTC gives us  
2 direction to work on today along with the affordable items to actually have an ordinance that  
3 would be drafted that would reflect those.

4  
5 If possible, it would be great this evening to hear from you all what you want to keep in and  
6 have the City Staff to refine and put in an ordinance, and topics that you say no, we don't need  
7 to take that up and we're fine with the way that the current ordinance and rules are in place.

8  
9 So, with that, I'm going to turn it over to Garrett. He's going to do a brief overview and then if  
10 there's more detailed questions after public comment we're happy to take those. Garrett?

11  
12 Mr. Garrett Sauls, Planner: Thank you, Rachael. Thank you, Commissioners. As Rachael noted  
13 today we're going to be talking about Accessory Dwelling Units. To just kind of go over briefly,  
14 the presentation is really going to talk about the ordinance as it came to be today, Council  
15 direction and the topics that are proposed in the Staff report as well as trying to figure out the  
16 next steps of what we want to do with this ordinance.

17  
18 So, as a brief summary, in fall in 2019, the state enacted new regulations for ADUs which the  
19 City then adopted an Interim Ordinance in January to catch up to those regulations. In October  
20 of last year, the City modified its ADU regulations to provide more... a different structure to the  
21 ordinance as well as put it into a separate section of its own and provide an additional incentive  
22 to try to encourage unit development.

23  
24 Now the Council in October of last year when they adopted the ordinance provide two action  
25 items... two directions... two pieces of direction for Staff. One was to continue working with the  
26 community including the local architect group who's formed themselves together to review  
27 Accessory Dwelling Unit Regulations and provide recommendations to Staff called the ADU Task  
28 Force through the PTC. The separate was to look at the... look at possibly deed restricting units  
29 to be affordable which as Rachael mentioned we're going to be bringing back currently on April  
30 14<sup>th</sup> if this item doesn't get continued and we have to continue of other things.

31  
32 So, just as a brief timeline overview, tonight we're going to be going over the 12 items in the  
33 Staff report. On April 14<sup>th</sup> we intend to return as well to incentive... to discuss incentives for  
34 creating affordable units and with that information that we get back or feedback that we get  
35 back from the PTC. Sometime in June, we would be coming back to provide a draft ordinance  
36 and get more specific information on the actual language of the ordinance if there are changes  
37 recommended and then in a perfect world return in the fall to City Council with that draft  
38 ordinance.

39

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1 So, in breaking down the Staff report is really based off of three topics. The first topic is related  
2 to the items that Staff is proposing to change. The second topic is related to any regulatory  
3 changes that the task force has put together and suggested that we adopt or consider that  
4 don't have as much Staff support. And there are three items in the third topic where Staff  
5 would be looking for the PTC to give additional feedback on whether or not they want Staff to  
6 propose different regulations about it or not as we've identified before. And like I said before,  
7 the separate item that will be coming back in about a month and a half or so is related to  
8 potential affordable regulations for ADUs.

9  
10 The items that we'll be talking about that are proposed for Staff support are allowing  
11 basements within setbacks. Current basement... ADU can have a 4-foot setback but if it's in a  
12 property setback it doesn't have any opportunities to develop a basement. We would be  
13 potentially considering an opportunity for allowing that to follow a 4-foot setback or the  
14 footprint basically a 4-foot setback for the ADU. The item is reducing noise-producing  
15 equipment setback requirements. So, location standards would be reduced such that it would  
16 be dependent on how noisy the equipment is. The current Noise Ordinance says that we need a  
17 or we need to meet a 66-decibel rate at the property line for residential properties which is the  
18 lowest threshold we have currently. And so, we would say that if the unit's less than 60, it can  
19 have much more flexible location and be based on wherever the applicant wants or if it's  
20 greater than that. Then it needs to provide... they need to provide some kind of noise analysis  
21 that demonstrates that it can be compliant at the property line.

22  
23 So, here's just an image that we'll probably going... talking a little bit more over to try to give a  
24 visual understanding of the locations for where an ADU can be. Additionally, this item is  
25 something that we'll probably be talking about related to basements. Where Staff is more  
26 supportive of having a basement in the first image on the far left that you see my mouse  
27 circling over here. Where you see the basement is more fully underground versus a basement  
28 that has a sunken floor level that may provide the opportunity for a truer second floor. That,  
29 Staff identified in the Staff report, as leading to potential problems for privacy and then the  
30 second... the last image is just kind of a reference point for if we were to allow truer second  
31 floors onto a unit currently. Whereas we more so provide for a first floor and something that's  
32 more like a loft than a second floor.

33  
34 There are five items in the Staff report where Staff has less support for making these  
35 recommendations or changes. One is to allow for attached garages to an ADU to be... to not  
36 count towards the maximum size of the unit. So, currently, the regulation states that if you  
37 have an attached garage to an ADU, it will contribute towards your maximum 800, 900, or  
38 1,000 square feet for your unit which mirrors what our current regulations are for the primary  
39 home. If you have an attached garage, the size of that garage contributes to the maximum size  
40 that's allowed for the house.

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1  
2 The second is about considering reducing privacy requirements or being somewhat more as like  
3 an Objective Standard for privacy. Staff is supportive of being more clear and direct about  
4 where or when privacy can apply, but they're not supportive of creating a threshold where we  
5 say at a certain distance privacy is no longer an issue. It presents some longer-term issues that  
6 we see related to our IR projects and others that... you know those kinds of concerns are critical  
7 for neighbors that we want to be very sensitive about. The third is about increasing the  
8 Exemption for Development Impact Fees. Currently, you can... your units are exempted from  
9 749 square feet and lower from having to pay Development Impact Fees. Staff is generally not  
10 supportive of eliminating fees which serve as community serving fees or supplement for the  
11 fact that we'll have an increased population in the City. The fourth is about refunding any sort  
12 of paid Development Impact Fees which is something similar such that any units that were  
13 permitted or required to pay Development Impact Fees before the state code change in 2020.  
14 The Task Force has asked PTC and Council to consider refunding those fees. In total, that's to a  
15 tune of about a million dollars currently from at least 2017 till this year. So, Staff recognizes  
16 that may be kind of an interest for residents but it does create a problem again for how we're  
17 going to offset those fees, those impacts, from unit's development. An increase in people who  
18 are going to be living here in that those fees ultimately be paid through either the General Fund  
19 or some special tax through the residents. The fifth item is about allowing doorways between  
20 units, attached ADUs. Staff previously didn't allow for... didn't support ADU... the doorway  
21 between an ADU mostly because there's no way right now Staffing wise for us to be able to  
22 confirm that these units are being uses as a unit versus as an attachment to the house or an  
23 addition to the house. And previously the Commission also voiced some concerns about that  
24 kind of issue coming up and whether enforcement can really effectively be achieved on that  
25 kind of a project.

26  
27 And the last three items are talking about street-side setbacks on corner lots. With the new  
28 state code, 4 feet was effectively established as the side and rear lot line... the side and rear  
29 setbacks. HCD has said that 4 feet applies both to a street-side setback which some jurisdictions  
30 consider as a second frontage as well. So, for corner lots where we typically will have a 16-foot  
31 street side setback, adjacent lots that may be a standard lot which is 20 feet. That could... it  
32 could be a lot more sharp difference between a 4-foot setback and a 20-foot setback. So, in the  
33 Staff report, we've identified these three items for opportunities to consider how we can  
34 maybe encourage or incentive units to better meet our urban design priorities. The second is  
35 about retracting prior deed restrictions. For this item, the state in 2020 eliminated temporarily  
36 the requirement for owner occupancy. In prior deed restrictions, one of the main things that  
37 deed restrictions provided were that notification that owners needed to occupy one of the  
38 units in order to rent the other one. In the latest ordinance update, Staff removed that need to  
39 have a physical deed restriction recorded against the property as the owner-occupancy  
40 requirements were no longer something that we could enforce at least until 2025 or for any

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1 units built during 2020 to 2025. So, Staff is looking to get some feedback from PTC on whether  
2 or not we want to rescind prior deed restrictions from before that year which currently still  
3 require owner occupancy and the last item is about Flood Zone Height Extensions. Primary  
4 homes within a Flood Zone are able to extend half the distance to... from what is needed to  
5 build to your base flood elevation and you can extend the height of your house as well as things  
6 like the Daylight Plan to accommodate for that kind of development. The City did not include  
7 that opportunity for Accessory Dwelling Units as they could be built at 4 setbacks and 16 feet in  
8 height. So, we don't think that there's really an issue in terms of being able to develop a unit  
9 that would prevent a widespread amount of units from being able to be developed. But if PTC  
10 wants us to study that more, that's the kind of feedback that we're looking for tonight.

11  
12 And then this image just kind of serves again as a visual cue to understand our conversation  
13 about corner lots where the red bars that you see could be an example of an ADU. The center  
14 image being something that may be more typical where someone proposes a 4-foot setback  
15 whereas someone proposing a 4 foot... a 10-foot setback. Related to one of the topics in the Staff  
16 report where we said maybe we could encourage some better streetscape transitioning from a  
17 front yard on a standard lot to a corner lot street side yard by saying the house may be able to  
18 encroach to that 10-foot setback as well. We currently allow this for substandard lots that are  
19 less than 50-feet wide. So, there would be some consistency in some of the policies, but it  
20 would be more so than for a standard lot that may be 6,000 feet... square feet or larger. They  
21 may be able to provide this or benefit from this as well.

22  
23 And just to recap, tonight we're going over these regulations. It's not an ordinance yet so if  
24 there is a need for more time to be discussing these specific items. There's no pressure to get to  
25 Council by a certain date or get there soon as these regulations are more... are all within the  
26 City's ordinance. They're not based on any sort of changes occurring at the state level, but  
27 again, on April 14<sup>th</sup> we intend to come back to talk about our affordable incentives for ADUs. In  
28 June again hopefully going back to PTC... coming back to PTC to talk about a formal draft  
29 ordinance and then possibly going back to Council in fall.

30  
31 So, to reiterate what Rachael said at the beginning. Our purpose of this is to discuss these or  
32 the input that we're wanting is to get some information from PTC about what we want to  
33 prioritize and what we don't. So, it is a bit of a take it or leave it concept because we want to be  
34 very clear about the things that we want to go forward with. So, that way Staff doesn't spend  
35 too much time trying to figure out if they should spend or if they should prioritize a regulation  
36 or if they shouldn't and that's it. I can leave up one of these slides. Either the timeline slide or  
37 any sort of... or this slide if you guys want to just let me know.

38  
39 Chair Hechtman: Alright, thank you, Mr. Sauls. So, it's 10 till 10:00 and so I want to take the  
40 temperature of the Commission about the duration of the meeting tonight. Let me tell you

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1 what I have in mind and then you all can tell me what you think. So, I'd like to... I'd like us to go  
2 tonight to approximately 11 o'clock. The order of business would be first Commission questions  
3 of the... of Staff on the Staff report. Then we would take public comment and once that had  
4 been completed, then we would I would say no more than 3 minutes per Commissioner. If you  
5 want to make some overall comments about ADUs or the ordinance in general but then what I  
6 want to do is there are 12 items that Staff is looking for feedback. And I want to take them one  
7 at a time in the order presented by Staff. So, I think the first one is basements and we will have  
8 our complete discussion about that item, make a motion to either basically a thumbs up,  
9 continue to pursue it, thumbs down, drop it, and I think Staff, to the extent we want to  
10 continue it, then I think Staff is open to feedback on what we might want to see and then we  
11 move to the next item. So, we're done with that, it's off the table and then we would take as  
12 many of those as we can get to until we get to 11:00. So, that's my proposal and I'd like to hear  
13 what my fellow Commissioners think about that. Commissioner Templeton.

14  
15 Commissioner Templeton: Thank you. Just doing the math, if we have 12 items, that gives us 5-  
16 minutes each if we try to close by 11:00. Are you thinking that we would just get through as  
17 many as we can by 11:00 and stop at 11:00?

18  
19 Chair Hechtman: Yes, I'm thinking we would get through as many as we can by 11:00 and then  
20 stop. And then I guess the question that I would have again, if there's an interest in this  
21 approach, I'd like to know from Staff when we can have this back? If we can have it as the first  
22 item on our next agenda and then let me hear that answer and then Mr... Commissioner  
23 Alcheck.

24  
25 Ms. Tanner: Let me look at our calendar quickly. I'm not sure if Commissioner Alcheck's  
26 question can go while I'm looking that up.

27  
28 Commissioner Alcheck: Yeah, I'd be happy to quickly talk. Ok, Commissioner... Chair Hechtman,  
29 Commissioner Templeton, I say this with all the respect for this Commission and its progress. I  
30 absolutely hate the notion of a time limit because we use all the time we're given. So, I would  
31 much prefer if you told me that there were 10 regulator changes that you said we're going to  
32 get through five. Because I believe that if you say we're going to get to at a minimum half, then  
33 people will in an effort not to go to bed at 1 o'clock in the morning will speak quicker than they  
34 would otherwise. And I think that if you say that we're going to go to bed at 11:00, we're only  
35 going to deal with one of them and it will take all the time till 11:00. So, I am a little concerned  
36 about setting a time limit for conversation because it... we inevitably take up that much time.  
37 So, my preference would be if you could just say my goal here is at a very minimum tackle the  
38 following two, three, four, five items and if we still have energy we can continue but if we  
39 don't, we can stop as opposed to setting a firm time limit.

40

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1 Commissioner Templeton: If I may?

2

3 Chair Hechtman: Before you do, let me just clarify that the 3-minute time limit I mentioned is  
4 only for preliminary (interrupted)

5

6 Commissioner Alcheck: No, no, I meant the 11 o'clock time limit.

7

8 Chair Hechtman: Yeah, I understand.

9

10 Commissioner Alcheck: If you say we have to finish at 11:00 and it's 10:30. We could take half  
11 an hour on one item. If you say we're going to try to get through at least three, then maybe we  
12 will get through three by 11:00. It's kind of chicken and egg.

13

14 Chair Hechtman: Commissioner Templeton.

15

16 Commissioner Templeton: I also wanted to clarify that time limit, I'm not suggesting a 5-minute  
17 time limit. I'm just doing the math that we wouldn't have time to finish it all. So, I would say  
18 that 11:00 is the latest we should go on this. Let's not be too ambitious about getting  
19 everything done. If we want to do a few at a time we can.

20

21 Ms. Tanner: Chair, to answer your question, we can move it to the next meeting or continue it  
22 rather. We will need to move some items around and depending on what we think will be the  
23 next meeting. We just need to talk and look at the schedule and it may go over a couple  
24 meetings just depending on how long the discussions go.

25

26 Chair Hechtman: Commissioner Lauing, did you want to talk to this timing issue? Process?

27

28 Commissioner Lauing: Just two sense is I agree with Commissioner Templeton and I think the 11  
29 o'clock cut-off, excuse me, should include agenda planning. Not just this item, so in other  
30 words, we should look to adjourn about 11 o'clock I agree.

31

32 Chair Hechtman: Alright, well I think we're going to proceed that way and to somewhat  
33 respond to Commissioner Alcheck's concern, ideally and I don't... well, really, we've got I see  
34 eight attendees, three hands up already, so it depends. I mean I think we should get through as  
35 many as we can. I think we should... ideally for me, we would get through the first seven which  
36 are the two that Staff is recommending and the five that the Task Force has put forward that  
37 Staff is less supportive of. How many of those we can get through? I don't know. I would  
38 encourage all of us to be as succinct as we can. So, let's move into it and so the first item of  
39 business then is whether any of my fellow Commissioners have questions for Staff before we  
40 get to public comment. Commissioner Alcheck.

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Commissioner Alcheck: First question, do we have a rule in the code that... last time we did this I thought we had a discussion about this. Do we have a rule in our code that doesn't allow windows on the sides of an ADU that face property lines when the ADU is within a setback?

Mr. Sauls: Yes (interrupted)

Commissioner Alcheck: So, if you wouldn't mind going back to that picture where you showed 4 feet on each side for me. Yeah, right there. Do we have a rule currently that says that because the setback in the rear is normally 20 feet and the side setback is 6? Do we have a rule that says that the two sides facing the exterior perimeter can't have windows?

Mr. Sauls: So, what we have in our code currently says that they would need to use some form of obscured glazing or other means to make it less impactful, or at least shield... create some form of privacy. So, that would be... that would... two things, that would be the obscured glazing and using something like a higher sill or a short window on those other property facing walls.

Commissioner Alcheck: Is there any other language-related to if the ADU is two-stories?

Mr. Sauls: No. Nothing specifically other than references to lofts, so it's that kind of equivalent space.

Commissioner Alcheck: Is the language strong enough to... I guess my question is, is the language strong enough that there won't be clear windows? Like a frosted window is a window you can't see through, but a window that has some obscuring could be a tree in front of a window. So, I'm trying to understand to what extent that requirement has teeth in it.

Mr. Sauls: Landscaping is semi-permanent so it's one of those things that we didn't incorporate into the ordinance last time. Mostly because if you have 4 feet (interrupted)

Commissioner Alcheck: Did you say semi-permanent?

Mr. Sauls: Semi-permanent, yeah.

Commissioner Alcheck: Ok, so that wouldn't qualify?

Mr. Sauls: Yes.

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1 Commissioner Alcheck: Ok. Let me ask you another question with respect to this particular  
2 picture that you have. Is there a reason why the noise production equipment that would serve  
3 this particular diagram can't be placed on the interior side of this ADU? In essence not facing  
4 the setback.

5  
6 Mr. Sauls: Oh, on this side?

7  
8 Commissioner Alcheck: Yeah.

9  
10 Mr. Sauls: They could (interrupted)

11  
12 Commissioner Alcheck: Is there some (interrupted)

13  
14 Mr. Sauls: Yeah, they could if they wanted to.

15  
16 Commissioner Alcheck: Issue (interrupted)

17  
18 Mr. Sauls: Not necessarily, no.

19  
20 Commissioner Alcheck: And so, the question really is (interrupted)

21  
22 Ms. Tanner: The issue is that there may be instances where the siding is not ideal for it to be  
23 there and the preference of that location would be to have the noise equipment in the setback  
24 area.

25  
26 Commissioner Alcheck: And do you by any chance have a list of equipment that you believe  
27 that we're talking about here? Is it just HVAC?

28  
29 Mr. Sauls: Mostly HVAC so like mini-split systems are what we've seen they've used... people  
30 have used on these ADUs.

31  
32 Commissioner Alcheck: And I would... since I know that we're likely to come back. Would you,  
33 mind considering that HVAC equipment is highly regulated, the likely equipment that would be  
34 allowable to be used currently, and moving forward has probably a typical decibel rating? So,  
35 would it be possible to get a sense for what the average noise that would be created by one of  
36 these items would be for the next time we come around when we're talking about this?

37  
38 Mr. Sauls: Yeah, I can try to find some examples.

39  
40 Commissioner Alcheck: Ok, great.

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Mr. Sauls: Mini-splits have been a little bit less than 60. I've seen between 50 and 55.

Commissioner Alcheck: Ok. Alright, well, I'll look for that next time, and then a next question is you mentioned that here as a million in refunds that was apart of the... if you can go back that page real quick. Yeah, refunding paid Development Impact Fees, the calculation came out to like a million dollars. Are far back are you going?

Mr. Sauls: So, that would be going back to 2017.

Commissioner Alcheck: So, my understanding was that in 2019 the change in the state law required that you couldn't charge fees starting January 2020 and so if you just refunded the fees that were incorrectly charged since the beginning of 2020. Do you have a number for how much that would be?

Ms. Tanner: No fee was incorrectly charged.

Mr. Sauls: Not off the top of my head but we (interrupted)

Ms. Tanner: I want to be clear, no fees have been incorrectly charged in this program. It was a change in state law that said that you do not... you cannot charge fees for units less than 750 square feet. So, there's no (interrupted)

Commissioner Alcheck: Oh, so we... so since January 2020 we haven't done that?

Ms. Tanner: Right, we've been following the law. That's correct.

Commissioner Alcheck: Ok so then the refund timeline goes from 2017 to the beginning of 2020?

Ms. Tanner: That's correct.

Commissioner Alcheck: Got it and then would you go forward a slide? When this comes before us again, I object to this picture. I just want you to know that. I believe pictures like this in City-provided presentations lend an error of credibility to some of the fear people have regarding ADUs. This... there's no way this is a 16-foot tall ADU and so my concern is that when you show a picture like this with respect to a conversation about ADU. We create some sense of fear among members of the community who think that this is something that could be possible which it certainly couldn't be. So, my strong preference would be that in the future when we have pictures of potential ADUs in our presentations. That we... unless the ADU is that small

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1 little shield on the left side of this picture, there's a problem with this picture because it's  
2 dramatically bigger than what we would ever consider. And I believe pictures say a lot to people  
3 who are listening and watching and so it's a problem. So, next, we come around can we get a  
4 different shot of a different... a more compliant ADU in our current rule set. Is that alright?  
5

6 Ms. Tanner: Sure.

7  
8 Commissioner Alcheck: Thanks.

9  
10 Commissioner Alcheck: That's all for me.

11  
12 Chair Hechtman: Alright, any other Commissioner questions of Staff that need to proceed  
13 public comment? Seeing no hands among Commissioners, let's move to public comment. Mr.  
14 Nguyen?  
15

16 Mr. Vinh Nguyen, Admin Associate III: Yes, it looks like we have right now seven raised hands.  
17 Thank you for the timer and the order of the speakers will be Randy Popp, followed by Peter  
18 Baltay, followed by John Kelley, followed by Esther, followed by Keith Bennett, followed by  
19 Rebecca Eisenberg, and then finally Jessica. So, our first speaker is Randy.  
20

21 Mr. Randy Popp: Good evening Chair, Vice-Chair, Commissioners, and Staff. My name is Randy  
22 Popp and I'm speaking as a designated representative of the ADU Task Force. I myself am an  
23 architect and I've been working in Palo Alto and local communities for more than 30-years.  
24 Most of us on the Task Force are of a similar background. As a group, we have collectively  
25 designed or completed more than 65 ADUs. We are a group who are passionate about this  
26 building type. Our familiarity is born of experience in the application of the maturing  
27 interpretation of state legislation and local ordinance. This gives us a unique perspective  
28 regarding the rules impact the ability to create this type of housing.  
29

30 I'd like to remind you the priority of the California legislature has assigned to ADUs. They found  
31 and declared the following. Accessory Dwelling Units are a viable form of housing in California.  
32 Accessory Dwelling Units providing housing for family members, students, the elderly, in-home  
33 healthcare providers, the disabled, and others at below-market prices within existing  
34 neighborhoods. Homeowners who create Accessory Dwelling Units benefit from added income  
35 and an increased sense of security and Accessory Dwelling Units are therefore an essential  
36 component of California's building housing supply.  
37

38 We appreciate your attention to the items before you tonight. We hope you will also quickly  
39 address our points regarding minimum increase to non-conforming structures and Green  
40 Building. As a side, I'd like to mention that ACD has made clear their preference for critic of

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1 proposed language rather than responding to an adopted ordinance. They've prioritized  
2 preliminary critic over all of their efforts and we would encourage Staff to take advantage of  
3 that methodology to validate language in advance.  
4

5 I understand you intend to address each of the items individually and as a representative of the  
6 ADU Task Force and co-author of the 15 suggestions for consideration. I would be happy to  
7 participate, as Council suggested, and answer any questions or provide further clarification if it  
8 would be helpful to you. Thank you.  
9

10 Mr. Nguyen: Thank you Randy for your comments. Our next speaker is Peter.

11  
12 Mr. Peter Baltay: Yes, good evening. Can you hear Vinh?

13  
14 Mr. Nguyen: Yes, we can hear you. Thank you.  
15

16 Mr. Baltay: Thank you. Good evening. I'm a practicing residential architect with over 30-years of  
17 local experience. My office of six employees is located in downtown Palo Alto. We have worked  
18 with many Palo Alto families to build and improve their homes. Lately, we've also been involved  
19 with several Accessory Dwelling Unit projects and have designed and permitted six ADUs in Palo  
20 Alto over the past 3-years. I'm also a member of the Palo Alto Architectural Review Board since  
21 2014 and I'm actively involved in numerous community groups and activities. I present my  
22 professional credentials because they are similar to many other members of the Palo Alto ADU  
23 Task Force. We are a group of experienced design professionals who have a broad depth of  
24 knowledge regarding local zoning and construction practices.  
25

26 Accessory Dwelling Units offer a means of providing affordable housing distributed uniformly  
27 through our City with little substantial impact on the built environment at no direct public cost.  
28 It is true that taller backyard housing closer to property lines will impact neighbors. More  
29 people in the neighborhood means more cars parked on the street. However, I cannot conceive  
30 of a more graceful and appropriate method of increasing housing density and to facilitate  
31 individual homeowners to provide and manage additional housing units on their own property  
32 as they see fit. Almost every client in our office is now asking for an Accessory Dwelling Unit as  
33 part of their new or renovated home and with good reason. ADU's provide a much-needed  
34 additional housing, are fiscally sensible, and are not a burden on residents or neighbors.  
35 Accessory Dwelling Units deserve our whole-hearted support.  
36

37 The Staff report in front of you tries to frame your discussion away from several important  
38 issues of the 15 suggestions in our letter to Council dated October 5<sup>th</sup>, 2020. I would like to  
39 highlight Items Two and Four. Allow partial basements for Accessory Dwelling Units of two-  
40 story units are possible. Dewatering and tree impacts are significant issues that are currently

- 
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1 addressed by our codes and practices. Practically speaking, an ADU basement is no different  
2 than the basement of a main house whose light well walls are often constructed within 2-feet  
3 of a side property line. Let the same standards apply to ADUs. It's only fair.

4  
5 Item Number Five to allow reasonable modifications to existing non-conforming structures to  
6 facilitate rather than... to facilitate reuse rather than demolition to help keep construction costs  
7 in check.

8  
9 Item Number Six allows flexible options for utility connections. Mandated new connections can  
10 be very expensive. Practical and technical, appropriate solutions are available. Insist that Staff  
11 work proactively towards providing affordable and practical water, sewer, and electric  
12 connections.

13  
14 Palo Alto additional Tier Two Green Building and Energy Efficiency Requirements are great for  
15 new larger homes. For small ADUs they are onerous and expensive. Press Council and Staff to  
16 allow compliance with basic state Green Building and energy efficiency standards for new  
17 attached ADUs.

18  
19 Lastly, allow noise-producing equipment within the 4-foot side and rear setback if compliant  
20 with Palo Alto noise regulations can be ensured. Restricting mechanical equipment locations to  
21 the sides of an ADU opening onto the property is unreasonable. Thank you for your time.

22  
23 Mr. Nguyen: Thank you Peter for joining us tonight. Our next speaker is John.

24  
25 Mr. John Kelley: Thank you Chair, Vice-Chair, Commissioners. I'd like to associate myself with  
26 what Peter just said and with what Randy just said and I'd also like to ask you all to pay much  
27 greater attention to the letter that was sent by the ADU Task Force by Jessica Resmini and  
28 Randy Popp dated October 5<sup>th</sup>. I believe it's Pages 66 to 71 of the Staff report. If you haven't  
29 read that letter in detail, I really commend it to you because it's going to go into much more  
30 detail than any of us can possibly set forth tonight.

31  
32 I'd also like to thank Commissioner Alcheck for making the point about the picture. I think that's  
33 very important and as to the particulars in the Staff report, there are only two that I want to  
34 speak to. I don't see why we need a distance limitation when we already have a sound  
35 limitation for HVAC equipment or other noise-producing equipment. And secondly, I think it's  
36 incredible that the City would anything accept rescind the old deed restrictions. They have no  
37 point in our Ordinance Policy going forward.

38  
39 But I want to speak about something that's really much more important and that is the  
40 fundamental question that I think goes beyond the tool set that you're really thinking about

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1 tonight. You probably all know the adage about looking at problems if you're just holding a  
2 hammer. I think much the same thing is occurring in tonight's discussion. We should be asking  
3 ourselves much more fundamental question. What is the kind of community that we want to  
4 live in? What the state has shown in the sections of the Government Code that Randy spoke to  
5 before and what you've heard from people throughout the community is building ADUs and  
6 facilitating their actual construction in great numbers will provide us with a better community.  
7 It can reinvigorate and enhance Palo Alto by expanding housing opportunities across a much  
8 wider range of income levels.

9  
10 Now, to accomplish that the PTC and the City Council have to do much more than just make  
11 changes in the zoning. I've sent you a letter earlier tonight but I want to give you some idea of  
12 the basic things that I think need to be changed. We need to increase the speed of approving  
13 ADUs. Current Staffing levels are not adequate. Its... I believe that we need more specialized  
14 assignments of personal and training for people in the Planning and Development Services  
15 Department and other Cities are approving ADUs in a week. We can do that as well. We also  
16 have policies with the UAC that are cross purposes with the policies of promoting housing. For  
17 example, if you put more dwelling units on one lot, I believe that you're going to get hurt under  
18 the current rates that are being charged by the UAC, and perhaps most importantly, we have to  
19 tackle the issues of financing. There's no reason why Palo Alto cannot become one of the first  
20 Cities to use a portion of its reserve portfolio to guarantee or back stop ADU financing and to  
21 allow for on-bill financing... on-bill payment on utilities or property tax bills. So, think more  
22 broadly and corporate and work closely with other members of the City government. I've tried  
23 to spell that out in more detail in my letter. Thank you.

24  
25 Mr. Nguyen: Thank you John for your comments. Our next speaker is Esther. Esther, if you're  
26 there, can you please unmute yourself? Last call for Esther.

27  
28 Ms. Esther Nigenda: Can you hear me?

29  
30 Mr. Nguyen: Yes, we can hear you now. Thank you.

31  
32 Ms. Nigenda: Great, thank you. Good evening Commissioners and members of the public. I am  
33 a Palo Alto resident considering adding an ADU. I am also an emergency services volunteer;  
34 therefore, I am always thinking of safety, resilience, and all those other concepts we now have  
35 to seriously consider as we start to feel the impacts of climate change. Some people think the  
36 impact of basements is much less than that of above-ground construction. The underground  
37 construction, unlike above-ground construction, is permanent. As we keep building more and  
38 more structures underground, we lose more and more soil. Soil, among its many other benefits,  
39 retains and slows stormwater as it flows from the Foothills to the Bay. Without enough soil left  
40 underneath our properties, the water will surface causing flooding. With the amount of water

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1 ground construction already happening in Palo Alto, the City's storm drain system could rapidly  
2 be overwhelmed. Tax payers could of course agree to finance increased storm water capacity.  
3 Alternatively, or additional, homeowners building underground could be required to mitigate  
4 for the decrease in stormwater capacity of their property.

5  
6 There are several other issues to consider with underground construction. One of them is  
7 underground construction where the groundwater level is 13-feet or less. In Palo Alto, this is  
8 approximately east of Middlefield Road but owners need to measure before digging. Scientists  
9 predict that with sea level and groundwater level rise, this property will flood within the  
10 lifetime of the building.

11  
12 Another issue is that underground construction divers the water flowing from the Foothills to  
13 the Bay. If you and all the neighbors on your block decide to build basements, you might not  
14 only divert the water, you might essentially create a dam. Again, this is a solvable problem if it's  
15 planned for a property. This would involve tracking all underground construction, just like we  
16 do for above-ground construction, and planning for water pathways.

17  
18 In conclusion, please give underground construction as much thoughtful consideration as you  
19 give to above-ground construction. Cumulative impacts matter. We shouldn't make  
20 acceptations to policies enacted for public safety and environmental reasons simply because  
21 we're constructing an ADU. Out of sight should not be out of mind. Thank you.

22  
23 Mr. Nguyen: Thank you Esther for your comments. Our next speaker is Keith who also has a  
24 presentation to go along with his comment.

25  
26 Mr. Keith Bennett: Hello, my name is... can I start?

27  
28 Mr. Nguyen: Yes, you may start.

29  
30 Mr. Bennett: Hi, my name is Keith Bennett. I am a resident of Palo Alto and I'm also involved  
31 with Save Palo Alto's Groundwater. We have been paying attention to issues concerning  
32 groundwater and the aquifer for about the next... the last 5 or 6 years. Next slide.

33  
34 So, as this cartoon here is just because it's out of sight, it's not out of mind and underground  
35 construction looks like it solves a bunch of problems, but it also creates some problems. Next  
36 slide. The impacts of underground construction are both during construction and after  
37 construction. If dewatering is required, there are a number of impacts which are listed here and  
38 after construction, there's issues of loss of soil which storm... stores stormwater on the side and  
39 also as Esther just mentioned, blockage of stormwater flows during and after storms. Next  
40 slide.

- 
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1  
2 This is data from the construction at 2361 Louis which was a residential home with a basement.  
3 This is a map showing two circles. One is 1,900 feet radius, the other is 2,900 feet radius. I'm  
4 going to show you data from monitoring wells on those locations. This dewatering was for a  
5 period of 82-days. They pumped about 20.85 million gallons. That's enough water to lower the  
6 water table by approximately 1 foot over the entire area of the large circle without inflow and  
7 also notice that the areas impacted go all the way to near toxic plumes. Next slide.

8  
9 So, we have on monitoring wells at 1,900 feet and 2,900 feet from this site. The first graph is  
10 from 1,900 feet away. The area in blue shows the period of dewatering and you'll notice that  
11 once dewatering started, which was August, the water level went down. It went down until  
12 dewatering stopped at the end of October and then it recovered. That difference is 13-inches.  
13 That shows that the water level under that house or the monitoring well was at least 13-inches.  
14 At 2,900 feet we have a similar graph and it was about 3-inches. Now what's surprising about  
15 this, next slide, is this is an expert from a report commissioned for the City of Palo Alto and  
16 included in the Planning and Transportation meetings on July 14<sup>th</sup>, 2004 by EIP Consultants.  
17 They were retained to advise on the impacts of ground water. Notice that they said dewatering,  
18 the effects could extend from several feet to several 10s of feet beyond the excavation  
19 depending on the method used. My point is, this report is radically wrong. We've shown that  
20 the effect extends 2,900 feet which is quite a ways. Next slide.

21  
22 I'm running out of time here so I'll just go to the conclusions. Next slide. This is a graph showing  
23 what happens during storms. This is data from 2016 to 2017 and you'll see that the  
24 groundwater rose a total of 5-feet over the period of about two months and that the rise is at the  
25 rate of 1 or 2 feet per day and then after storms it slowly drains. Obviously, a lot of  
26 [unintelligible] will cause dams. Next slide.

27  
28 Chair Hechtman: Mr. Bennett I need you to conclude, please.

29  
30 Mr. Bennett: Ok, next slide. So, maintain our public safety and environmental responsibility.  
31 Permit basements or other underground constructions only if the permitted building area of  
32 the property. Basements really can't be removed later. Thank you.

33  
34 Chair Hechtman: Thank you.

35  
36 Mr. Nguyen: Thank you Keith for joining us tonight. Our next speaker is Rebecca.

37  
38 Ms. Rebecca Eisenberg: Hi again, thank you so much for hearing my comment. There are a lot  
39 of proposals on the deck and there's just not time to go through each of them on a case by case  
40 basis. Some I support, some I question. So, I hope to give you some... urge you to consider some

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1 general matters as you evaluate each of these proposals. Specifically, I urge you to consider the  
2 purpose of the ADU laws and what goals seek to be served from them. As you know, Palo Alto is  
3 experiencing a huge shortage of housing. This is driven in part by the fact that even as shown  
4 tonight, the City Staff seems to view its job potentially as just approving and processing  
5 applications for commercial development. Rather than taking a more critical look at the  
6 applications and given the rate at which commercial office space is approved and the rate at  
7 which retail and residential land is allowed to be changed to office buildings. We... that crisis,  
8 that lack of housing is becoming more and more severe. Remember that every time you all vote  
9 for a measure that increases office, like some of you did earlier tonight, you're going to need to  
10 figure out how to provide housing to balance that out which hasn't happened. That's why I  
11 support a moratorium on office development.

12  
13 Regardless, so we have a huge need for housing production and current methods are just not  
14 working. I don't know how many... I don't know if you all are getting tired of looking at the  
15 proposals for 350 square foot homes but I'm getting very tired of that. The biggest needs in our  
16 community as we know are for working families and lowest-income workers. We have enough  
17 spaces for Google employees to work... to live and anyway, shouldn't Tesla and Google be  
18 providing those homes anyway?

19  
20 ADUs provide an extraordinarily low impact means of increasing our supply of real estate. I  
21 really am grateful to both Peter Baltay and John Kelley's articulate comments which I'd like to  
22 incorporate fully by reference. I think it's a great way to move costs onto the homeowners  
23 while also increasing their property rights and importantly, giving them additional ways to  
24 create revenue to enable them to stay in the community rather than be priced out. ADUs can  
25 be flexible and they should be flexible.

26  
27 The last point I want to make is also to agree with the comments about building down and how  
28 dangerous that can be. Especially so close to the toxic plumb. Please consider being more  
29 flexible about building up because the right of people to be able to live here I think is bigger  
30 than any notion of outdated privacy. Thank you for your consideration.

31  
32 Mr. Nguyen: Thank you Rebecca for your comments. Our last speaker is Jessica.

33  
34 Ms. Jessica Resmini: Can you hear me?

35  
36 Mr. Nguyen: Yes, we can hear you. Thank you.

37  
38 Ms. Resmini: Great. My name's Jessica Resmini, I'm a local architect and I recently helped  
39 author the comments prepared by the ADU Task Force. Thank you, guys, for taking the time to  
40 hear all this tonight. I just want to take one comment is to commend all the efforts of the

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1 amazing project coordinators of the City of Palo Alto. Over the past year, they've done back  
2 flips to really process all the applications going online. So, I just want to give a little shout-out to  
3 the Staff. That they have been doing amazing work. Of course, we always want more but I do  
4 want to say they've been doing great.

5  
6 There's three comments. I echo everybody else. In particular a building, a basement is truly not  
7 a trivial undertaking. I don't anticipate very many actual basements would go in under these  
8 ADUs and it would probably be on some larger ones where it was more appropriate. But what is  
9 more likely is that some homeowners might opt to partially recess the ADU by a couple of feet  
10 to allow for a more interior head height. So, I just want to make that point that it's not quite as  
11 extreme. I don't think the typical application is a full basement so I would consider allowing 2 to  
12 3 feet for interior clearance to allow for the state's 800 square foot ADU by right.

13  
14 The other very important thing to consider, echoing Peter, is Tier Two Clean Building  
15 Requirements are great for new large homes, but if a homeowner proposes an additional  
16 alternation to their home under 1,000 square feet. They do not have to do the Tier Two Green  
17 Building and it's a huge burden for homeowners when they undertake these ADUs. So, if they  
18 are doing like a 300 square foot ADU, I suggest that falls under the addition or alteration tier  
19 and just becomes Calgreen mandatory. I think that's really important.

20  
21 And lastly, we really have to think about the Flood Zone. I'm working on an ADU right now that  
22 has a finish floor height that is going to be 5-feet above the adjacent grade and it's an Eichler  
23 right on Amarillo and Greer which is just crazy because starting December 8<sup>th</sup> of 2020, we now  
24 have to build the finish floor 12-inches above the base flood elevation. And so, it's getting quite  
25 crazy so we have to get a little creative there. You guys can discuss that more and finally I just  
26 want to echo Peter Baltay who just said it so well that ADUs are a graceful and appropriate  
27 method for providing housing. So, thank you for all your efforts in helping us come to fruition  
28 for homeowners.

29  
30 Mr. Nguyen: Thank you Jessica for your comments. Chair Hechtman, that concludes public  
31 comments for this item.

32  
33 Chair Hechtman: Thank you, thank you. Alright, I want to move us into Commissioner  
34 deliberation, but actually, I want to start with a question of Staff just to help us understand  
35 what's in front of us and what's not and why not. So, there were some references made to the  
36 ADU Task Force letter which we have at Pages 66 forward in our Packets, and those include 15  
37 items. Yeah, 15 items that they're proposing. Now we don't have 15 items that are... we're  
38 being asked to look at by Staff and so perhaps Mr. Sauls you could help us understand why  
39 some of those are being brought to us and some not.

40

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1 Mr. Sauls: Certainly, so from these 15 items there are a number of these things that are being  
2 considered tonight as well as being considered in the separate discussion about affordable  
3 units. But some of these items are more specifically oriented toward this concept of or this  
4 discussion that will be happening about affordable units and looking at what are ways to do or  
5 consider one could say tradeoffs of allowing something that we don't typically allow to occur  
6 for the sake of getting something that the City certainly wants to have like an affordable unit.  
7 So, to not necessarily go through each of the items which you can kind of see here. This is just a  
8 bullet point of the bold item which is from the 15 points in the letter which... with Staff's  
9 response to those items.

10  
11 So, to the first item about alignment with state code, the City has adopted its ordinance which  
12 Staff believes is (interrupted)

13  
14 Ms. Tanner: So, Garrett, just in the interest of time, I just want to point out. Most items are  
15 covered either tonight or as part of the affordable item. There are three items which are not  
16 discussed which are not part of the Planning Code. They are part of the Building Code and so it  
17 was not Staff's understanding that the PTC would have control to recommend or to opine on  
18 those matters. That would be the Green Building, utility connections, and fire sprinkler which is  
19 part of separate codes.

20  
21 Chair Hechtman: I think that's very helpful and so, what's important to me number one, is that  
22 Staff is looking in one form or another at each of the 15 points in the letter. Number two, a few  
23 of those points are not within in our PTC purview and number three, that some of those points  
24 are coming to the PTC but not... are not here tonight. They're coming back as part of the... really  
25 the more affordable... affordability issues that we're going to see in April.

26  
27 Ms. Tanner: Certainly, and some of the affordability issues, when the PTC does look at those,  
28 you could say well actually, we think this is just great for any unit. So, there an option to say this  
29 just would be good policy in general. We don't need it as an incentive only for affordability, but  
30 they do push the envelope in our standard development practices in Palo Alto.

31  
32 Chair Hechtman: Ok, thank you. Alright, so the next order of business here is if any of the  
33 Commissioners feel like they have some overarching comments that don't touch any of these  
34 12 items in particular. Now would be an opportunity to take as I suggested 3 minutes to sort of  
35 give your big picture if any of you want to. So, I'll look for any hands up and if I don't see any  
36 then I'm going to move us to the first item and I'm not seeing any hands up.

37  
38 Alright, so again the way I want to move forward with this is... I'm sorry, I'm looking for the  
39 order of the conversation tonight. We're going to take it in the order of the Staff report and so  
40 we're going to start with basements. So, I want to have a discussion among the Commissioners

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1 regarding basements and then I'd like for us at the conclusion of that discussion to give  
2 direction to Staff whether our view is that they should continue to pursue the issue or not. Drop  
3 it and if we do want to pursue it then if there's anything anybody wants to add for them to  
4 particularly look at. So, let's dive into that and I want to start actually with Mr. Sauls, whether...  
5 now that we're on this specific topic, is there anything that you'd like to add? I know you have a  
6 somewhat abbreviated Staff report.

7  
8 Mr. Sauls: Sure. So, as it relates to basements for these kinds of units, in the Staff report we also  
9 identified what could be potential regulations for how we would go about implementing that.  
10 The concerns that we have in mind are how these basements may affect things like on adjacent  
11 properties. So, one thing that we could incorporate into our code, which is partial already  
12 incorporated, but we would be more explicit is to how they affect adjacent things like trees.  
13 That we wouldn't be allowing for a basement to effectively damage a tree on adjacent that  
14 would so much result in that tree being... result in it being dangerous or end up being removed.

15  
16 You know we certainly are aware of the concerns on dewatering and the City currently has  
17 regulations about how to manage projects with that, but in general, the... I wouldn't say the sky  
18 is the limit but what I would say is that we can be... you know right now we're just trying to get  
19 feedback from you. So, it doesn't necessarily have to be so only focused on the items that  
20 we've identified in the Staff report.

21  
22 Chair Hechtman: Mr. Sauls, I think it seems from my reading of the Staff report, one of the  
23 questions you're looking for guidance on is whether a basement under an ADU should be  
24 limited to being within the buildable area of the parcel or more broadly, could it be anywhere?  
25 In other words, even within the setback (interrupted)

26  
27 Mr. Sauls: Correct.

28  
29 Chair Hechtman: So, that's something that the Commission may want to talk about.

30  
31 Ms. Tanner: That's correct. That... probably is the biggest question would be do we want to  
32 have basements in the setback and in this case, it's not just the 4-foot setback of the ADU from  
33 the side property line. It's the rear yard that's required for single-family homes, so do you want  
34 to have ADUs there and that... or ADUs... basements? And then is it a full basement or a  
35 partially subterranean floor as shown in those two images? Perhaps the Staff is recommending  
36 the full basement and not the partial subterranean floor but as you heard from the members of  
37 the Task Force. That is desired by some of the design professionals.

38  
39 Chair Hechtman: Alright, it looks like Commissioner Alcheck, your hand is up.

40

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1 Commissioner Alcheck: Well, I actually have a procedural question for you. Are you opposed  
2 to... so I have some thoughts on this but I also am wondering if there's any interaction we could  
3 have with some of the design members or maybe the representatives of the Task Force? And  
4 the reason why I say that is because frankly, I'm pretty familiar with our Building Code and  
5 basements in particular but I don't think I hold a candle to some of these individuals that are  
6 participating tonight. And I'm wondering if there is an organized way we could ask those  
7 questions maybe that we might have for those... for Staff and also design professionals or any  
8 thoughts on that?

9  
10 Chair Hechtman: [unintelligible -no audio] and actually, we just hadn't quite got there yet but  
11 my thought was these first two items our Staff is recommending and so I was thinking we would  
12 handle those. When we get to the next five items, and we may or may not tonight, those are  
13 the items that the Task Force has promoted but Staff was less supportive of. And for each one  
14 of those, I actually wanted to invite the appropriate member of the Task Force to illuminate  
15 their view a little bit more. I hadn't thought to do that on these first two items because my  
16 impression was that they had Staff's support but I think the point you're raising is the Staff  
17 report is maybe not as broad for basements for example, as the ADU Task Force is promoting.  
18 And so, it may benefit us to have to hear them talk about that as well. Am I understanding, that  
19 right?

20  
21 Commissioner Alcheck: Mean I have thoughts but I feel like I need to reserve them till maybe  
22 there's a little bit more insight.

23  
24 Chair Hechtman: On basements in particular or other items?

25  
26 Commissioner Alcheck: Yeah, I think the issue here is... well, I'll give you two examples. Number  
27 one, we heard from one member of the public about dewatering and my familiarity with the  
28 dewatering process which would be involved in below-grade is that the process that was  
29 described is how it use to be done. And I think that we've actually revamped that process  
30 significantly in the last several years and so there's some questions there that I think an expert  
31 in the field who has participated in this process, understands how the basements are executed,  
32 and understands the City requirements maybe could help us see.

33  
34 And then second issue is I heard one of the members of the Task Force I think to talk about is  
35 what they really perceive as what's likely to happen. And so, there's a part of me that... I don't  
36 know that I want to see us get into a really big discussion about basements as this big issue if  
37 the real focus should be are we comfortable with a certain amount below-grade feet or not and  
38 maybe the conversation is shorter. So, there's a part of me that feels like it's a broad topic but  
39 there's maybe a sort of focused emphasis here with respect to ADUs that why would we  
40 consider this change? What is their... what is the Task Forces or is there a representative that

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1 can opine on their perspective on this. And so that we don't make a mistake and then find out  
2 about it tomorrow when they write a letter. That's sort of what I want to avoid is a failure to  
3 appreciate what's the most important part of this discussion simply because it's so big.

4  
5 Chair Hechtman: So, it seems like your suggestion might be addressed if I sort of broadened the  
6 plan I had for Items Three through Seven to include these first two and get some comment  
7 from the Task Force. Before.... I mean would that... that's what you're looking for? Some  
8 comment from the Task Force?

9  
10 Commissioner Alcheck: Yeah, I guess I felt like Council's direction was to work together with  
11 some of these community stakeholders and to understand it. And I read their... the letters they  
12 sent in and now we're in the middle of the debate and I just or discussion about well, should we  
13 allow it? Should we not allow it? And I just think if there was some... a nuanced discussion or I  
14 don't know. You want to set a time, given them a minute and a half to give us some idea and  
15 we could better understand it. Some of these elements I feel like are better suited for a  
16 discussion on the ARB than the PTC, to be frank. We're not that familiar with the Building Code  
17 from that perspective and so I just... I don't want to get to a place where it gets to City Council  
18 and they're like well they didn't understand the real issue.

19  
20 So, I guess what I'm asking is if you would be amendable to that considering that the Task Force  
21 was sort of named by the Council in there.

22  
23 Chair Hechtman: Yeah, I am and was planning on it for the later items but before we do that, let  
24 me find out from Commissioner Summa and Lauing who have their hands up if they want to go  
25 ahead and speak now, or would rather differ until we hear from a member of the Task Force. I'll  
26 start with you Commissioner Summa.

27  
28 Commissioner Summa: Thank you. No, I had questions for Staff so if you want to resolve this  
29 matter of whether we... how we involve the Task Force tonight first I'll wait.

30  
31 Chair Hechtman: No, I think I have a strategy to involve them. Again, I was going to involve  
32 them on Items Three through Eight. Now I think I'll involve them in One and Two, but we can  
33 deal with that after you ask your questions because maybe some of the answers that come  
34 forward from Staff will eliminate things that members of the Task Force might need to say.

35  
36 Commissioner Summa: Then I'll just go ahead and ask questions and I am also concerned about  
37 the impacts of full basements and... as expressed by members of the public also. Especially as  
38 we get more and more of them and the cumulative effect but I wanted to ask Staff if the  
39 partially subterranean, which is on Page 46, it's the middle drawing. If that has... if that really  
40 eliminates the impact? That was one question.

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Ms. Tanner: The impacts of dewatering a full basement?

Commissioner Summa: Just the impacts of basements redirecting flow and all the water issues and eventually causing this sheet flooding I think it's called and sea-level rise being in conflict with the ground water.

Ms. Tanner: One thing I can say is that when we do come back if basements are included in that matter to continue, we can make sure we have our Public Works Staff here who manage our dewatering process to make sure we can get those specific questions answered. For Staff, I'll say the reason we're supportive more of the full basement is more to do with privacy and whether or not the PTC is supportive of promoting through that more full floors for two-story ADUs. And again, that may be a concern that the PTC doesn't share and, in that case, perhaps it is the subterranean... the just partially submerged basement may have lesser impacts for the dewatering in the topics that we talked about. We'll need to confirm that with Public Works. The trade-off being perhaps having full second stories but perhaps it's one that the PTC sees as a reasonable trade-off.

Commissioner Summa: And then just a clarification about the bullet number on the same tree about impacts and trees on adjacent lots. Would that also... never mind, I already answer my question. And then... sorry, are we requiring... are we still allowing dewatering or are we requiring the metal panels? I forget what they're called, that go down so that you don't have to dewater?

Ms. Tanner: Oh, I know what you're talking about and I can't think of the name either.

Commissioner Summa: I forget the name.

Ms. Tanner: Oh, what is it called? I know what you're talking about. I believe that the dewatering is still allowed and in certain times of the year. The secant walls, that's what it is that you're thinking of.

Commissioner Summa: Secant, yeah.

Ms. Tanner: Yes, that's it. Garrett, do you have insight into that from our Public Works Staff?

Mr. Sauls: Mostly from when I talked with one of them today they said dewatering is still happening. It's not necessarily something that's... there's a cost to it and there's a lot of documentation to it, but it's not necessarily a... unless... obviously, it's an... unless you do this

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1 you don't get your permit. But if they do that information and satisfy those requirements then  
2 it's not necessarily a barrier that says it's not going to happen.

3  
4 Ms. Tanner: I think secant walls are uses in certain circumstances where it may be the property  
5 calls for it or something about the site conditions would favor that over the other methods of  
6 dewatering.

7  
8 Commissioner Summa: Ok, so we're still allowing traditional dewatering. Ok, those are my  
9 questions for now. Thank you.

10  
11 Chair Hechtman: Commissioner Lauing.

12  
13 Commissioner Lauing: Yes, thanks. First going back to the first sentence of the report, I  
14 appreciated Garrett that you said that the topics covered in this report at well best and  
15 complex. Even though some of us have been through this now three or four times, every time I  
16 go through them, I go wow, this is really robust and complex. So, I appreciate that  
17 acknowledgment and associated with it some patience for some of us that are not entirely up  
18 to speed.

19  
20 I has sort of an overall goals question on the basement thing, but second... first of all in the  
21 second sentence you say that this could have a greater variety of configurations and  
22 accommodate a range of properties with specific layouts. Does that translate to we could  
23 squeeze more people in there? I'm not quite sure what that sentence means.

24  
25 Mr. Sauls: Yeah, so it's not so much that we could squeeze more people in there. It's more so  
26 that people can have a little bit more flexibility if they can do above ground and below ground  
27 construction in terms of how interior-wise they layout their building.

28  
29 Commissioner Lauing: You mean the height or just the whole layout?

30  
31 Mr. Sauls: The whole layout internally can be more flexible if they have more space to work  
32 with. I think that's the generalization that anyone can say really, but the idea really is that if  
33 they are only allowed on the first floor. Some site constraints like a placement of a tree or the  
34 existing building or the other setbacks or just the lot orientation can provide barriers to how  
35 they actually do that structures. Where as if they can do part of it above ground and part below  
36 ground, they may still fit some kind of a footprint but there's still a little more space to work  
37 with.

38  
39 Commissioner Lauing: So, there's net more square footage by adopting this approach, right?  
40

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1 Mr. Sauls: Correct.

2

3 Commissioner Lauing: Ok, so that one thing and then just overall, I mean the problem areas  
4 here are trees, water, and soil. So, isn't overall as you look at this, isn't it sort of risk mitigation  
5 for those three in order to get the extra space? Is that sort of the puzzle that we need to work  
6 here?

7

8 Mr. Sauls: Yeah and that's pretty typical for most projects. That you provide a T1 Sheet or  
9 evaluate any impacts to trees as a first step. Secondly, for anyone doing a basement and they  
10 need to go through the dewatering process. You know Public Works has their standards and  
11 other documents that they need to go through or submit to the City to review that. So, it  
12 doesn't... so it adds some layers of complication to the project permit itself, but none that don't  
13 currently already exist or are not currently already looked for.

14

15 Commissioner Lauing: Ok. On Packet Page 46, the third bullet point, is all the details there  
16 contained basically in the Tree Ordinance around the building?

17

18 Mr. Sauls: Yeah, so that's in the Tree Technical Manual and the Tree Ordinance. I believe that's  
19 Chapter... Title 9 if I'm... no, never mind. Well, all that stuff is in the Tree Ordinance so they pay  
20 attention to that.

21

22 Commissioner Lauing: That's what I figured and on the next bullet point, you're missing a word.  
23 Require that ADU basements be fully something.

24

25 Mr. Sauls: Underground.

26

27 Commissioner Lauing: Ok.

28

29 Ms. Tanner: The word underground got transposed... the next sentence so.

30

31 Commissioner Lauing: It got put underground somewhere so that's fine. That's my overall  
32 questions, thanks.

33

34 Chair Hechtman: Commissioner Alcheck, you have your hand up again.

35

36 Commissioner Alcheck: Yeah, maybe... if this would help if I just made my comment and then if  
37 you felt like it was appropriate, you could allow a member of the task force to respond because  
38 maybe they'll be able to respond to some of my inquiries. And that... would that be a better  
39 approach?

40

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1 Chair Hechtman: I was going to ask them to weigh in after I took a round of questions but we  
2 can do it your way.

3  
4 Commissioner Alcheck: Ok. Alright, here are some of my thoughts. I'm comfortable with  
5 basements under ADUs but I want to address some of the questions that I'm having a problem  
6 with. The first is that it says that the... a basement can encroach into the 4-foot ADU setback.  
7 These are the proposed suggestions. I would suggest that's fine because if the building can't  
8 encroach within the 4-foot setback then the basement shouldn't because we have a  
9 requirement that basements be underneath the buildings. So, that's consistent and I like the  
10 idea of consistency in our code.

11  
12 The next bullet point though is problematic. ADU light wells cannot be located closer than 4  
13 feet to a property line. All light wells would need to be screened from view from the public  
14 rights of way. I don't believe that light wells should be screened from the public rights of way.  
15 They are almost invisible from the street, the ones that face the front. I'm familiar with a few  
16 properties in Palo Alto that have light wells that face the street and you can't even tell they're  
17 there. So, that to me sounds like just like a weird... I'd love to hear what the architects have to  
18 say about that but. I've seen homes that have entryways with bridges over light wells that  
19 provide light to basements. It's a little confusing to me why that's important.

20  
21 The second part of that though is odd to me because right now a main residence can have a  
22 light well and that light well is allowed to be 3 feet from the property line. Let me say that one  
23 more time. A main residence, which is limited to 6 feet from a side property line, can have a  
24 light well in its basement extend within 3 feet of its side property fence. So, why would we be  
25 uncomfortable with a light well coming that same proximity from the same fence line that the  
26 house would? This is... now I don't believe that there'll be multiple homes with two basements,  
27 but I do believe that there may be some... again, there's some component of it. Maybe the ADU  
28 is the garage and there's a basement under... they convert a garage into an ADU and there's a  
29 basement underneath it and so there's elements to this that I would like to be consistent. So,  
30 me that one stuck out as oddly inconsistent.

31  
32 The next one... the next bullet point here; the new basement must not negatively impact tree  
33 roots on adjacent lots. I don't think we should require that... I don't think the language should  
34 be any different than the language we apply to the basement on main residences. Which is to  
35 say that if on a main residence you can have your basement within, and your light well for that  
36 matter, within 3-feet of the property line and there isn't a specific restriction for your  
37 neighbor's orange tree roots. Then there should be one for ADUs. So, essentially, we should  
38 take the language that we have in main residence basement and allow it by using the language  
39 in ADUs, allowing that general language to apply. Basements must be X. Doesn't matter if the  
40 basement's under ADU or if the basement is under the main residence. I don't think we need

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1 specific orange tree protections for basements under ADUs. And I mention an orange tree  
2 because that first sentence says nothing about protected trees. Only the second sentence says  
3 protected trees which are very different. I would be concerned for example if you found that  
4 your neighbor was considering an ADU and you were really opposed to its location and you go  
5 and you plant a couple plumb trees right by your fence. You can plant a tree by the way right up  
6 against your fence and so there's a little bit of a concern there that we would incentivize people  
7 to... maybe that's not a sincere concern but it is a concern of mine. I think we should only  
8 require what we're currently requiring from main resident basements.

9  
10 Then the next one here requires that ADU's be fully underground such that the finished floor is  
11 placed at grade. So, this flies almost entirely at the face of one of the comments I think the  
12 architects made which was that by having a partially submerged basement you can create an  
13 ADU that is below the height of the limited height that your allowed and creates some  
14 combination of living space. That's a win-win in my opinion. I mean I think for a significant  
15 number of properties in the City, the water table is significantly lower than the basement.  
16 There are locations where dewatering takes place. There are also lots of sites where the  
17 basement is dug deep but still above the water table and so in this particular instance when we  
18 say a few feet below grade. You're likely creating an option where a lot of ADUs can be below  
19 that height limit and created added useable space which sounds to me like a win-win. Ok, so I  
20 think that fourth bullet is really a problem. It should be taken out.

21  
22 And then the last one, this is so terrible, all basements for Accessory Dwelling Units shall count  
23 towards the units Gross Floor Area. What? We don't count Gross Floor Area in basements  
24 anywhere on main residences. No one would build a basement in Palo Alto if you counted the  
25 basement as Gross Floor Area. Why would you say to an ADU person, we're willing to tolerate  
26 up to 750 square feet above grade but if you put some of that underground where it won't  
27 bother anybody. Then we only want to see 350 square feet above ground. That doesn't make  
28 any sense. The beauty of the basement is that it will create more livable space. Maybe it's  
29 storage, maybe it's a little office, who knows, for whoever it is that's living in that space. And it  
30 in essence allows almost a doubling of the floor area without any impact, let's excuse for a  
31 minute the situation where they have to dewater, without any impact on the views. It's super  
32 low impact.

33  
34 Now there's a question about whether or not we should allow a basement within 4 feet of the  
35 setback and here's a question that I have for Staff and also architects. Which is that I am  
36 familiar with the Housing Code allowing for example pools. Residential pools to be within 6 feet  
37 of a property line and that is the interior line of the pool; which is to say that the exterior wall  
38 of the pool comes even closer. Potentially 5 feet from the property line and a pool can be 10  
39 feet deep. There's no real rules regarding its depth, so there is excavation that's taking place  
40 within 5 feet of a rear setback in the form of a pool. So, if we're comfortable with an above-

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1 grade building within that 4 feet of that back-property line. If we're comfortable with that, what  
2 is the difference between the pool that is excavated ground and concrete poured and  
3 potentially dewatered being 5 feet from the fence and this basement being within that setback  
4 as well?

5  
6 Ms. Tanner: So, I'll (interrupted)

7  
8 Commissioner Alcheck: And so (interrupted)

9  
10 Ms. Tanner: Sorry.

11  
12 Commissioner Alcheck: I'm sorry and so one of my questions isn't so much is there a distinct  
13 difference. One of my questions is, is there a concern that when you build a basement and like I  
14 said, we allow light wells to be underground within 3 feet of a property line. So, presumably,  
15 you can do it without affecting the integrity of the property 3 feet away. There are shoring  
16 methods that allow you to do it. So, if there's an over arching theme here, it's let's allow  
17 consistency to be our guide. Anything less than consistency in my mind would suggest that we  
18 have a problem with the ADUs. My perception is that if you suddenly make a rule that doesn't  
19 apply to the main residence, but would apply to an ADU. Then maybe you really don't want  
20 ADUs. So, I would suggest that let's try to align those requirements. If we allow basements  
21 within 3 feet here, allow them here... there. If you're going to allow a below-grade excavation 5  
22 feet from the rear fence with respect to pools, then you should allow it... or 6 feet. Then you  
23 should allow it 6 feet from the rear fence when it comes to ADUs because they're not entirely  
24 different. Ok, that's... those are my comments and I would like at some point to hear from the  
25 architects if there's any validity to some of these comments.

26  
27 Ms. Tanner: If I can just address a couple things first, Chair? So, I want to make sure it's really  
28 clear that if you are in the buildable area of the home, you can build a basement with an ADU.  
29 What we were specifically talking about is the rear yard of the home outside the buildable area.  
30 When you talk about a light well of existing homes, presumably they're somewhat consistent  
31 within a given neighborhood. So, that light well is 3 feet from the neighboring building and so  
32 perhaps that's a pattern that we have. So, what we're talking about is a backyard ADU that's  
33 likely detached from the main unit, that's 4 feet off the property line. Where is that light well  
34 and how far does it have to be? In that case, that ADU is not aligning with the other homes on  
35 the block and their buildable area. It's aligning with the rear yard of a neighboring property and  
36 so again, we're not saying... Staff is supportive of basements to your most recent question. We  
37 support having basements within 4 feet of the property line. We are... we're supportive of that  
38 happening so we would agree with you in that. But I think it's important to understand this is  
39 saying that very... that basements can be in the rear yard and that is different than how we  
40 treat homes and how to regulate basements that are under homes.

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1  
2 Chair Hechtman: So, Mr. Sauls, I see your hand is up and then I want to hear from you and then  
3 I want to actually call on Mr. Popp.

4  
5 Mr. Sauls: Sure, so just a correction, so in the Staff report it says that unit would... that that  
6 basement's base would count towards Gross Floor Area. It should be saying that that's  
7 basement's base would count towards Maximum Unit Size, not Gross Floor Area for the  
8 property. So, that's an error. That should be... that should have been corrected and that's  
9 consistent with what we have applied to units in the past before. So, that was it.

10  
11 Commissioner Alcheck: Would that... I'm sorry just would that still limit... so if you were allowed  
12 to build 900 square feet if you build a base (interrupted)

13  
14 Mr. Sauls: So, it would be 450 above ground and 450 below ground.

15  
16 Commissioner Alcheck: Ok but would you describe as counting basements in general? Is any...  
17 towards any limit as inconsistent with the way we treat basements with respect to the main  
18 house?

19  
20 Mr. Sauls: No.

21  
22 Commissioner Alcheck: You don't consider that inconsistent?

23  
24 Mr. Sauls: No, I don't because what I just said is that it should have been corrected in the Staff  
25 report that it would only be counting towards the Maximum Size of the Unit, not the total Floor  
26 Area for the property which is what you were suggesting before.

27  
28 Commissioner Alcheck: So, let me ask you this question. A main residence in Palo Alto can't be  
29 larger than 6,000 square feet above ground, but it could build a basement that is also 6,000  
30 square feet and potentially be a 12,000 square foot livable space. How is that not different from  
31 the approach that you're taking where the Maximum Unit Size is 900 but because a portion of it  
32 is underground, it can't actually be 900 above ground whereas a main residence maximum size  
33 is 6,000 but it could be 6,000 above ground even if it had a basement of any size?

34  
35 Mr. Sauls: Well, before we didn't even allow basements at all under anything. So (interrupted)

36  
37 Commissioner Alcheck: That's [unintelligible](interrupted)

38  
39 Mr. Sauls: In that setback so this is a change (interrupted)

40

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1 Commissioner Alcheck: Wait, wait, hold on a second (interrupted)  
2  
3 Mr. Sauls: No, no, no. So basically (interrupted)  
4  
5 Commissioner Alcheck: You can create a basement, not inside a setback?  
6  
7 Ms. Tanner: Hold on Garrett. Garrett.  
8  
9 Mr. Sauls: What is that (interrupted)  
10  
11 Ms. Tanner: Let's pause for a second.  
12  
13 Chair Hechtman: Commissioner Alcheck, let (interrupted)  
14  
15 Commissioner Alcheck: Could the basement be in the buildable area but also not count  
16 towards the total?  
17  
18 Mr. Sauls: No. So, it would basically be that if it would... if you had a basement space  
19 underneath an ADU, that space that's used for the ADU would then or that basement space  
20 that's used for the ADU would count towards the maximum size. [unintelligible](interrupted)  
21  
22 Commissioner Alcheck: If it's in the setback or in the buildable area?  
23  
24 Mr. Sauls: Correct. That's what we've had before.  
25  
26 Commissioner Alcheck: Right, right, ok. I'm just... just to be clear, it seems to me like there's an  
27 inconsistency because even if it wasn't in the setback. Even if the basement was in the  
28 buildable area, if it was under the ADU, you would count it towards the limit of an ADU  
29 (interrupted)  
30  
31 Mr. Sauls: Towards [unintelligible].  
32  
33 Commissioner Alcheck: But in a main residence, a basement doesn't count toward the limit of a  
34 main residence. So, that to me, strikes me as an inconsistency with our approach to basements  
35 whether or not they're in setbacks because they don't count towards maximums when it comes  
36 to the main residence. That's sort of (interrupted)  
37  
38 Ms. Tanner: Sure. If that's something that PTC wanted to change, we would be... that could be a  
39 recommendation that's made from the PTC.  
40

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1 Commissioner Alcheck: I was just trying to make sure that there is an inconsistency there. I  
2 wasn't making it up because if someone says no, we deal with it the same way. Then it makes it  
3 sound like my point is moot but I don't think we do so I was just trying to get clarity there.  
4

5 Chair Hechtman: So, let me... I'm going to move us forward because I'm about to close the  
6 discussion for the evening but before I do that because most of the Commissioners have  
7 chimed in at least somewhat on the basement issue. I would like to ask Mr. Popp who has his  
8 hand up, as a member of the ADU Task Force, who is promoting the basement concept, if he  
9 has, having heard what the Commission has said thus far, has maybe a couple minutes that he  
10 wants to take to provide any enlightenment to the Commission on the views of the Task Force.  
11 Specifically, on this basement issue.  
12

13 Ms. Tanner: Mr. Nguyen, if you can unmute Mr. Popp. There he is. Thank you and I think you  
14 can speak now Randy.  
15

16 Mr. Popp: Thank you. Can you hear me?  
17

18 Ms. Tanner: Yes, we can.  
19

20 Chair Hechtman: Yes.  
21

22 Mr. Popp: Ok, super. So, thank you all for this interesting discussion. I appreciate this, the  
23 complexity in the way that you're traveling through this. I do want to agree with Rachael's  
24 comments. The state code is the minimum and you all have the flexibility to go farther and to  
25 be more flexible about this if you choose to. I have had some very specific discussions with the  
26 Staff at HCD and I will state that I'm probably not in agreement with what Staff's interpretation  
27 of some of this, but I would encourage them to have a similar discussion with HCD about this.  
28 My understanding from talking to the Director of HCD and to Staff is that the state exclusion...  
29 state Exemption Accessory Dwelling Unit, which is this sort of classic 800 square foot unit, is  
30 permitted within 4 feet of the property line, up to 16 feet above grade and HCD's interpretation  
31 of that is that there is no restriction below grade. So, I appreciate all of this discussion but I  
32 want to just state very clearly that from my understanding, this is not discretionary. Whether  
33 it's 2 feet or 8 feet or whatever it is. You can have a basement under an 800-square foot state  
34 Exemption Accessory Dwelling Unit if you choose to and in contrast to Commissioner Alcheck,  
35 part of the interpretation of that would be that the limit is 800 square feet. And so, a portion of  
36 that goes underground, it's subtracted from the portion that would be above ground. This is the  
37 area where PTC could choose to be more flexible and incorporate something that's more  
38 consistent with the other components of our regulation.  
39

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1 I do want to just comment in respect to Mr. Bennett's notes that I do a number of projects in  
2 Palo Alto. Virtually all of them have basements and some of them are quite large. The process  
3 of trying to dewater in Palo Alto at this point is so onerous that virtually no one does it and we  
4 have these very capable regulations regarding excavation and groundwater management using  
5 exclusionary excavation. Secant wall construction, cut-off walls as they're sometimes called,  
6 and the kind of concerns that I think were being discussed are really no longer quite so valid. I  
7 think it would be great to have someone from Public Works come and comment on that and  
8 really those are my points here.

9  
10 I think that... I'm sorry, one more quick item. In regard to the tree roots, it is possible and I have  
11 performed tree root surveys where they do below ground x-ray of tree root locations. It's very  
12 expensive to do this but if there was a Heritage Tree that was concerned... of concern or at risk.  
13 You could require that as part of the process. That would be easy. So, hopefully, I've touched on  
14 everything you asked about. I... you know I just want to reinforce the idea of consistency and  
15 hopefully, you can benefit from what I've added. Thanks.

16  
17 Chair Hechtman: Thank you, Mr. Popp, and to the Task Force. So, I want to stop the substantive  
18 conversation at this point. Commissioner Templeton, I realize that you haven't had a chance to  
19 weigh in, nor have I. I'm going to ask you to hold your powder and we'll get to it later. I did  
20 want to ask Ms. Tanner if you've had a chance to sort of look ahead and see when this can  
21 come back to us to continue the discussion?

22  
23 Ms. Tanner: Thank you, Chair. We can bring it back next week. I don't... or not next week. In our  
24 next meeting. I don't know... we could talk perhaps about how we might need to break it up  
25 over a couple meetings because we do have quite a few items over the next few meetings. And  
26 so... and some of them are time-sensitive that need to be heard at a specific time. So, we may  
27 not be able to finish this item completely in the next meeting if the pace of discussion is  
28 mirroring today's discussion pace.

29  
30 Chair Hechtman: Ok, well then, I would like us to keep moving aggressively forward on this  
31 issue as our time will allow. I think it's important for us to move these items forward. Get them  
32 clarified as soon as we can so that people start building pursuant to the new rules that will be in  
33 the ADU Ordinance that the City Council will adopt. So, I'm supportive of moving it forward that  
34 way. Any Commissioners feel the need to weigh in on that idea? Sorry, I got to look at my  
35 panelist. I've got... I'm seeing two hands up. Commissioners Alcheck and Lauing. Is that about  
36 this? No. Down. Commissioner Lauing, are you... you're up.

37  
38 Commissioner Lauing: I just wanted to ask Ms. Tanner if there's any specifics that we know are  
39 going to be back in 2 weeks?

40

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

1 Ms. Tanner: For this item?

2

3 Commissioner Lauing: No, no, other items that are going to crowd this out.

4

5 Ms. Tanner: Oh, yes, we need to take up the Comp Plan Annual Report and the... which includes  
6 the report on the Housing Element progress because that's due to the state by April 1<sup>st</sup>. So,  
7 we've got to get that on to Council, and then we also are taking up a Parcel Map. So, we want  
8 to make sure our applicants aren't delayed further. We were going to look at the State Density  
9 Bonus but I would move that off to a future date in order to accommodate the ADU discussion  
10 at our next meeting.

11

12 Commissioner Lauing: Thank you.

13

14 Chair Hechtman: Mr. Yang, under these circumstances, do we need a motion to continue this  
15 item?

16

17 Mr. Yang: Yeah, that would be appropriate.

18

19 MOTION

20

21 Commissioner Templeton: I'll make the motion to continue this item.

22

23 SECOND

24

25 Commissioner Summa: Second.

26

27 Chair Hechtman: [unintelligible – no audio] clarify the motion? It is to move it to our next  
28 agenda?

29

30 Ms. Tanner: Which is February 24<sup>th</sup> I believe.

31

32 MOTION RESTATED

33

34 Commissioner Templeton: I move that we continue this item to February 24<sup>th</sup>.

35

36 Commissioner Summa: And I second.

37

38 Chair Hechtman: [unintelligible – no audio]

39

40 Commissioner Templeton: Can't hear you, Chair.

- 
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Chair Hechtman: Oh, sorry. Any discussion? Can you hear me now?

Commissioner Templeton: Yes, we can hear you now.

Chair Hechtman: I'm not seeing any hands up. Mr. Nguyen, can we vote?

VOTE

Mr. Nguyen: Commissioner Alcheck?

Commissioner Alcheck: Aye. Yah. Sorry. Who just said my name?

Mr. Nguyen: I did. I was asking for a vote.

Commissioner Alcheck: Oh, ok. Alright, I was just going to suggest if the Chair could coordinate with whoever is going to participate in this discussion next time. To make sure that they're present and hopefully, they can participate again that time too. That would be helpful.

Chair Hechtman: On behalf of the Task Force you mean?

Commissioner Alcheck: Yeah, I just... I think that's invaluable to be perfectly honest. Ok, my vote is yah.

Mr. Nguyen: Chair Hechtman?

Chair Hechtman: Yes.

Mr. Nguyen: Commissioner Lauing?

Commissioner Lauing: Yes.

Mr. Nguyen: Vice-Chair Roohparvar is absent. Commissioner Summa?

Commissioner Summa: Yes.

Mr. Nguyen: Commissioner Templeton?

Commissioner Templeton: Yes.

- 
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1 Mr. Nguyen: The motion carries 5-0 with one Commissioner absent.

2

3 MOTION PASS 5(Alcheck, Hechtman, Lauing, Summa, Templeton) -0 -1(Roohparvar absent)

4

5 Chair Hechtman: Thank you.

6 **Commission Action**: Motion by Templeton, second by Summa. Pass 5-0

## 7 **Approval of Minutes**

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

9 4. January 13, 2021 Draft PTC Meeting Minutes

10 Chair Hechtman: So, we have a couple of very short I hope procedural items to finish out  
11 tonight's meeting. We'll go next to the approval of minutes, Item Four, which are the January  
12 13, 2021 draft minutes regarding which I had provide some revisions. I didn't see any other  
13 Commissioner revisions. Does anyone have a motion on that? Commissioner Alcheck?

14

15 MOTION

16

17 Commissioner Alcheck: So, moved. Moved. I move the approval of the minutes.

18

19 Chair Hechtman: As revised?

20

21 Commissioner Alcheck: As revised.

22

23 SECOND

24

25 Chair Hechtman: [unintelligible] looks like the second from Commissioner Lauing. Can we have  
26 a vote, please?

27

28 Mr. Vinh Nguyen, Admin Associate III: Yes. Commissioner Alcheck?

29

30 Commissioner Alcheck: Aye.

31

32 Mr. Nguyen: Chair Hechtman?

33

34 Chair Hechtman: Aye.

35

36 Mr. Nguyen: Commissioner Lauing?

37

38 Commissioner Lauing: Yes.

39

- 
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1 Mr. Nguyen: Vice-Chair Roohparvar is absent. Commissioner Summa?

2

3 Commissioner Summa: Yes.

4

5 Mr. Nguyen: Commissioner Templeton?

6

7 Commissioner Templeton: Yes.

8

9 Mr. Nguyen: Ok the motion carries 5-0 with one Commissioner absent.

10

11 MOTION PASS 5(Alcheck, Lauing, Hechtman, Summa, Templeton) – 0 -1 (Roohparvar absent)

12

13 Chair Hechtman: Thank you.

14

15 **Commission Action**: Motion by Alcheck, seconded by Lauing. Pass 5-0

## 16 **Committee Items**

17 Chair Hechtman: Are there... let's see... Committee items? [unintelligible]

18

19 Ms. Rachael Tanner, Assistant Director: Sorry, Commissioner Hechtman [note – Chair  
20 Hechtman] I think at the beginning when you come off mute for some reason there's a little  
21 delay in your sound. And so, it's a little hard to hear the very first words you say and then it  
22 catches up. It goes fine so I think you might have to repeat yourself.

23

24 Chair Hechtman: Ok. Committee items, are there any? Did you hear that? Ok, it doesn't look  
25 like there are any Committee items.

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

27 Chair Hechtman: Commissioner questions, comments, announcements or future agenda items?  
28 I had indicated at the end of last meeting and at the beginning of this one that we would have a  
29 Zoom discussion amongst the Commissioners how it's going. I'm going to differ that to at least  
30 the next meeting. We'll see how... what time we finish that one, but are there any other  
31 questions, comments, announcements, or future agenda items? Seeing none, this meeting of  
32 the PTC is adjourned. Thank you, everyone.

## 33 **Adjournment**

34 11:10 pm

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