



CITY OF
**PALO
ALTO**

Planning & Transportation Commission Action Agenda: July 13, 2022

Meeting
6:00 PM

Call to Order / Roll Call

6:08 pm

Chair Lauing: I'd like to Call to Order the regular meeting of the Planning and Transportation Commission for July 13, 2022. And would you please call the roll?

Deputy City Clerk Vinh Nguyen: Chair Lauing.

Chair Lauing: Present.

Mr. Nguyen: Vice-Chair Summa.

Vice-Chair Summa: Present.

Mr. Nguyen: Commissioner Chang.

Commissioner Chang: Present.

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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 Mr. Nguyen: Commissioner Hechtman.

2

3 Commissioner Hechtman: Present.

4

5 Mr. Nguyen: Commissioner Reckdahl.

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7 Commissioner Reckdahl: Present.

8

9 Mr. Nguyen: Commissioner Roohparvar.

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11 Commissioner Roohparvar: Present.

12

13 Mr. Nguyen: Commissioner Templeton.

14

15 Chair Lauing: Currently Absent. Okay, just for the record we have five in Chambers and one

16 remote hybrid. We have to do our beginning of the month resolution authorizing use of

17 teleconferencing for the PTC meetings so can I have a motion to adopt that please?

18

19 MOTION

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1 Commissioner Chang: I'd like to move that we adopt the resolution authoring the use of
2 teleconferencing for Planning and Transportation meetings during the COVID State of
3 Emergency.

4

5 Commissioner Chang: Second for someone?

6

7 SECOND

8

9 Commissioner Reckdahl: Second.

10

11 Chair Lauing: Second from Commissioner Reckdahl. All in favor? Do we want a Roll Call vote?

12

13 Mr. Nguyen: Yes, since we do have members of the Commissioners online we do have to take a
14 roll call vote. Would you like for me to start now?

15

16 Chair Lauing: Turn up your mic.

17

18 Mr. Nguyen: Okay, Commissioner Chang.

19

20 Commissioner Chang: Yes.

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2 Mr. Nguyen: Commissioner Hechtman.

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4 Commissioner Hechtman: Yes.

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6 Mr. Nguyen: Chair Lauing.

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8 Chair Lauing: Yes.

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10 Mr. Nguyen: Commissioner Reckdahl

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12 Commissioner Reckdahl: Yes.

13

14 Mr. Nguyen: Vice-Chair Summa

15

16 Vice-Chair Summa: Yes.

17

18 Mr. Nguyen: Commissioner Templeton is absent. Motion carries thank you.

19

20 MOTION #1 PASSED 5 (Chang, Hechtman, Lauing, Reckdahl, Summa) – 0 - 1(Templeton Absent).

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Chair Lauing: Okay.

Assistant Director Tanner: Excuse me, do we need to take public comment on that item? Did we take public comment?

Chair Lauing: What's that? I didn't hear.

Assistant Director Tanner: Do we need to take public comment even if there isn't any? Did we open that item for public comment?

Chair Lauing: Yes, but we have to read that other resolution about how you can participate remotely.

Assistant Director Tanner: Right, I just want to make sure, we just have some attendees on the line, I don't imagine that they wanted to comment on item one.

Mr. Nguyen: Okay, sure. (Crosstalk) We do have one raised hand that was raised from earlier so I'm not sure if it's for this item specifically (interrupted)

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1 Chair Lauing: Council Yang is on screen we can ask him.

2

3 Mr. Yang: Sure, yeah I was just going to advise we should have the opportunity for public
4 comment on that resolution before the vote. Yeah.

5

6 Assistant Director Tanner: So if you have public comment on this item you can raise your hand
7 either on the zoom app, the button that says raise your hand, or if you are calling in, I don't see
8 any remote callers, I believe, I should know this at this point, to raise your hand and
9 be called on.

10

11 Chair Lauing: Okay there are no comments so...

12

13 Mr. Nguyen: We do have one raised hand from Aaron James.

14

15 Chair Lauing: For this item?

16

17 Mr. Nguyen: We we have to call on him to find out. So, Aram can you let us know if your hand
18 raise is for this item or a different item.

19

20 Mr. Aram James: Yes, it's raised for this and also for oral communication.

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Chair Lauing: Okay fine.

(Crosstalk)

Mr. Nguyen: I'm sorry, go ahead.

Mr. Aram James: Thank you very much I was just going to say that I think it's really critical to keep the option of being able to participate remotely open, I know that I was very disappointed in Ken Dauber with the school board trying to close off remote discussion. There's lots of reasons that participation went way up and it doesn't mean you're going to get a lot of aggressive outsiders coming in, I don't know where Ken was coming through on that. You know, I happen to like Ken, not so much his spouse but that's another issue altogether. But anyway, I just am glad that we're doing that because it does up public participation and allows folks to come in and discuss critical things and be able to do it without you know spending gas and transportation times and lots of other issues. So thank you.

Chair Lauing: Thank you. Council do we need to revote?

Mr. Yang: Yes, I guess we should. Thank you.

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2 Chair Lauing: Okay. Then would you please call the roll.

3

4 REVOTE

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6 Mr. Nguyen: Yeah Sorry. Commissioner Chang.

7

8 Commissioner Chang: Yes.

9

10 Mr. Nguyen: Commissioner Hechtman.

11

12 Commissioner Hechtman: Yes.

13

14 Mr. Nguyen: Chair Lauing.

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16 Chair Lauing: Yes.

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18 Mr. Nguyen: Commissioner Reckdahl

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20 Commissioner Reckdahl: Yes.

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Mr. Nguyen: Commissioner Roohparvar.

Commissioner Roohparvar: Yes.

Mr. Nguyen: Vice-Chair Summa

Vice-Chair Summa: Yes.

Mr. Nguyen: And Commissioner Templeton, it looks like she is still out. The motion carries, thank you.

MOTION #1 REVOTE PASSED 6 (Chang, Hechtman, Lauing, Reckdahl, Roohparvar, Summa) – 0 - 1(Templeton Absent).

Commission Action: Motion by Chang, seconded by Reckdahl. Motion Passed 6-0-1.

Chair Lauing: Okay, and before we move to Oral Communications let’s just read that documentation to show how people can phone in for access.

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1 Assistant Director Tanner: Excellent, we are conducting a hybrid hearing right now on July 13,
2 2022. You can join this meeting by going to <https://zoom.us/join>. You can enter meeting ID 916
3 4155 9499. You can also join by phone by calling 1-669-900-6833 and also entering Meeting ID
4 916 4155 9499. And if you are joining via zoom you can raise your hand via the zoom raise hand
5 function which should be in the lower portion of your screen or you can use star nine (*9) to
6 raise your hand if you are on the phone and you'll be called on to speak when the item you
7 wish to speak on has been reached and you will have up to three minutes to speak on that
8 item. So that is our intro for our zoom hybrid meeting.

9

10 **Oral Communications**

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

12

13 Chair Lauing: Thank you, so let's go to our Oral Communications where anyone from the public
14 can speak on any item that is NOT on the agenda. If it's an item for something that is on the
15 agenda then we ask you to hold that until the next section. I think we have at least one. Aram
16 go ahead.

17

18 (Cross talk)

19

20 Mr. James (Public speaker): So Chair, I was going to waste my time talking about my strong
21 distaste or dislike for a member on the Commission in fact a former Chair, but I think that's a

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1 waste of time so I'm going to try to be constructive instead. You know, I started out and I don't
2 expect answers to any of these questions, I want to let you know I'm not picking on you. I have
3 done questions of City Council members, judicial candidates, sheriff candidates, we're probably
4 going back about 20 years now. I'll send you a piece or two on that just to show I'm not playing
5 here but first of all, I don't expect the answers but I'm going to be giving these to all the Council
6 members and I'm going to develop more questions and hopefully more concisely. So the Dobbs
7 case that ended... the Supreme Court ended... the federal right to abortion, love to know what
8 your position is on that and a females right to about anatomy, autonomy I should say and
9 whether you would support the notion that the City of Palo Alto should become a sanctuary
10 city for women from out of state who can't afford abortions, we can fund them to come in here
11 and do that, I know we're doing that on the state level, but this is a little bit different of a
12 question. I'm going to also want to talk to you about former mayor Dubois' signature and the
13 other candidates as well, don't feel picked on, where the Mayor signed a letter on condemning
14 antisemitism but I asked the HRC to do a similar letter to condemn the state of Israel for their
15 relentless terrorist attacks on the Palestinian people and the US three billion plus a year
16 support for that and pushing out the expansion of housing into Palestinian land. I've got about
17 nine questions, obviously I'm not going to get to all of them tonight Ed, but this is sort of, if you
18 can think in the future what you think of these issues. The idea of electing rather than having a
19 Ed Shikada appoint police chief. We should have an election for Police Chief, I think that's an
20 important consideration, certainly a more transparent conversation or ability to look at the

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1 Chief candidates given what I talked about the last time, the importance of reforming policing
2 or defunding it altogether across the country. We had a lot of discussion on those issues and I'd
3 like to get your perspective on that at some point. Also the idea of your current viewpoint on
4 police practices, weaponize K-9 units, the fact that we still have Zach Parone hanging around in
5 the Police Department, I'm sure you're familiar with that scandal, the fact that Ed Shikada, in
6 my view, acts like an authoritarian autocrat and pushes around the City Council who they hire
7 with very very very little pushback. Okay that's it for tonight, Ed, but I'll keep bringing questions
8 to you and the other candidates. Thanks a lot tonight. Thank you.

9

10 Chair Lauing: Thank you. Any other?

11

12 Mr. Nguyen: Chair that concludes oral communications.

13

14 Chair Lauing: Okay, Thank you.

15

16 **Agenda Changes, Additions and Deletions**

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

18 None.

19

20 **City Official Reports**

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1 Chair Lauing: Okay, now we'll go to the Director's Report from Assistant Director Tanner, before
2 you go to that I would like to just make a comment that it's sad to announce that this is her last
3 night with the Planning Commission. She's on her own Planning Commission in San Francisco,
4 it's very exciting, but is looking at other opportunities there and is leaving the City and has
5 worked, as many of you know, on a transition which is ongoing, but progress is being made. I
6 think we have all loved working with Rachael and feel her support and her knowledge and
7 expertise will be missed. When the camera gets to her, you'll see some flowers that went along
8 with a card from the Planning Commission that's just a small thank you for all you've done and
9 absolutely best wishes for everything you're going to do and as it said in the card, we're going
10 to be watching your success. So, Thank you for your help.

11

12 1. Directors Report, Meeting Schedule and Assignments

13

14 Assistant Director Tanner: Thank you Chair Lauing, thank you Commissioners it's just these are
15 very lovely flowers and I'm excited to bring them home and be able to look at them everyday
16 they're just really wonderful and I would just say a few comments to you all. It has really been a
17 pleasure to have served the Planning Commission. You are all very thoughtful individuals who
18 really have the best interest of Palo Alto at heart, it's present and it's future. You each treat
19 each other very kindly and very thoughtfully and very respectfully and I really admire the
20 intentionality around trying to really wrestle with issues and trying to discuss them and

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1 understand each other's point of view. I hope you continue to keep that spirit alive and well. It
2 really has been a pleasure to work with the Planning Commission ... Planning and
3 Transportation Commission, I'll not forget Transportation or Rafael will get me... and I think,
4 you know, even though we've gotten better at getting out not super late so we're not all like
5 loopy at the end, but it's just been a lot of fun to work with you all. You have a lot of work cut
6 out for you the rest of the year and as long as you're serving and I hope that you will continue
7 to lean on our great staff, we have an amazing staff, you'll probably see a few folks rotating
8 through this chair, helping to support the liaison role but they're really just excellent planning
9 staff who are here to serve you, excellent office of Transportation here to serve you and really
10 be partners with you in working with the community and again thinking about the present and
11 the future of Palo Alto so, I'm excited for the next chapter of my life, but I'm really grateful for
12 the time I got to spend here in Palo Alto. I've learned a lot, I've had a lot of really good
13 experiences, been trusted to be a shepherd of the public trust and I'm hoping that I did my
14 best, certainly to do that and to look forward to... I'll still be in the bay area, who knows our
15 paths may cross again and please do reach out, I think you can find me on LinkedIn, I'll certainly
16 give you my personal email and phone, if you ever need anything and yeah, on to myself a bit of
17 consulting work, some wedding officiating which has been a labor of love for a long time for
18 me. And who knows what the future holds but again very very grateful for you all and thank
19 you for this very kind and thoughtful gesture, I was not expecting it, so it really is quite
20 touching. So I'll leave that as my report for today, maybe except for one housekeeping item

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1 which is there is an item on the Council meeting on August 1st, which is the first meeting back
2 from their break, which is the map we looked at, 1033 Amarillo that will be up but we will make
3 sure we email the potential liaison especially if that changes for that meeting. But with that, I
4 will hand it over to Rafael if he would like to give an update from the office of Transportation. I
5 believe he's with us online.

6

7 Senior Engineer Rafael Rius: Yes thank you, I'm Rafael Rius, Senior Engineer with the Office of
8 Transportation and I also want to say thank you and congratulations to Rachael, it's been an
9 honor working with her and the Office of Transportation is very grateful for her services and
10 help she's provided to us. To give the Commission an update on a few projects, Phase III of the
11 Charleston/Arastradero project continues to progress, one construction delay to note is the
12 traffic signal at Charleston and Louis and Montrose is being pushed back slightly due to lead
13 times and limited materials procurement. We're anticipating the signal to be completed now
14 this fall. We were hoping to do that before school started but it won't happen. Also, separately
15 the traffic signal repairs on pedestrian island improvements for the northeast corner of Alma
16 and Meadow will be completed this week, if it's not already, I think they were targeting today
17 to complete the signal work there. And then lastly a bronze plaque was mounted at the new
18 Adobe creek over crossing in memory of Benjamin Lefkowitz and was unveiled during a
19 ceremony yesterday. Mr. Lefkowitz was an avid cyclist and bird watcher and resident of South
20 Palo Alto, who lobbied the City Council in the 1980's to improve access between Palo Alto and

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1 the bay lands which led to the seasonal undercrossing at Adobe Creek for Highway 101. That's
2 it for updates from the Office of Transportation.

3
4 Chair Lauing: Okay I just want to comment while Rafael is on the line, we mentioned at the pre-
5 meeting yesterday that we'd like the transportation group to find the time to have us get to
6 that study session which was listed as our number one priority, not necessarily number one of
7 all the priorities but item number one for anyone's reference in our Work Plan, to investigate
8 and take a look at some our danger areas so just encourage you to get that on our calendar
9 when you can. Understanding it needs a little bit of prep.

10
11 Mr. Rius: Understood and I did share that with my supervisor already and we'll be discussing
12 that and trying to come up with the best strategy in bringing ... preparedness to this
13 Commission.

14
15 Chair Lauing: Okay. Great. Any questions of staff on the reports.

16
17 **Action Items**
18 Public Comment is Permitted. Applicants/Appellant Teams: Fifteen (15) minutes, plus three (3) minutes rebuttal.
19 All others: Five (5) minutes per speaker.

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1 Chair Lauing: Okay, then the next item on our agenda is our major item of ADU code changes to
2 PMC Chapter 18.09, Public Hearing and Legislative review and I think we have a staff report
3 from Garrett.

4 3. PUBLIC HEARING/LEGISLATIVE: Review and Discuss Potential Ordinance Changes to
5 Palo Alto Municipal Code Chapter 18.09, Accessory and Junior Accessory Dwelling
6 Units. Environmental Assessment: Exempt from the provisions of the California
7 Environmental Quality Act (CEQA) pursuant to Public Resources Code Section
8 21080.17 and CEQA Guidelines sections 15061(b)(3), 15301, 15302 and 15305
9

10 Assistant Director Tanner: We do. We do have Garret Sauls who is with us virtually and I just
11 want to congratulate Mr. Sauls he was recently promoted to a Planner. He's been working
12 diligently for the city of Palo Alto for a number of years, and I just want to say this here for him,
13 I have seen in my time here, his growth and his development taking on increasingly more
14 complex projects including legislation as well as his work as a current planner with active
15 projects. And just very well-deserved promotion and we're glad we're able to keep him here as
16 part of our staff. So, Mr. Sauls, I will turn it over to you.

17

18 Planner Sauls: Thank you Rachael, can you all see my screen?

19

20 Assistant Director Tanner: Yeah we can.

21

22 Chair Lauing: Yes.

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1 Mr. Sauls: So as Chair Lauing was identifying earlier, this topic of conversation which will be me
2 taking up all our time tonight will be about the ADU Ordinance update which has been kind of a
3 long time coming unfortunately. We had previous conversations last year around February and
4 May and since then this item had been pushed off from a number of other priorities that the
5 City management wanted to focus attention on those prior to returning to the PTC with this. So,
6 as an overview what I'm going to be talking about is what we've talked about so far or just a
7 recap of what we've talked about so far up until this point, reminding... putting a refresher on
8 the City Council's direction from 2020 when the City updated it's ADU Ordinance, identifying
9 information really to the HCD letter that the City received as well as staff's response and then
10 talking about the specific areas of regulatory change that the PTC had directed staff to adopt,
11 specifically related to proposed areas of change, corner lot incentives, affordable ADU
12 incentives and then other modifications that had not been previously discussed will be saved
13 for the end. Additionally, we just also wanted to note it is a very substantial item, there's a lot
14 of items to discuss so staff is not seeing necessarily a recommendation today, if it's not
15 possible, we are looking to potentially have an additional meeting or continue the item to a
16 second meeting if necessary.

17 So to recap what's been discussed so far, in the fall of 2020 the city updated it's junior and
18 accessory dwelling unit law, ordinance to comply with State Law changes that had come
19 through at the beginning of the year, both Council... Council at that time had directed the PTC
20 to continue refining that ordinance and look at establishing a potential program for affordable

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1 ADUs. In March and May of last year and in 2020, we had discussed those items and tonight
2 we're going to be looking at the specific language proposed in the ordinance based on the
3 direction that the PTC had provided. Ideal hope is that either next month or in September we'd
4 be able to return back to the PTC, if necessary, in order to provide any refined language in the
5 ordinance and then this fall or winter proceed to the City Council with the draft ordinance. As a
6 refresher on the City Council direction back in October of 2020 at that time staff had received a
7 letter, which is one of the attachments in the staff report, from the Palo Alto Task Force, which
8 is a group of local designers who had come together to comment on the staff and board draft
9 element of 2020 as well as address other areas that they thought the city's ordinance could be
10 expanded to support ADU development. At that time Council directed staff to continue working
11 with those professionals as well as the PTC to create an affordable deed restriction process,
12 affordable ADU process, and also look at potential other policy changes to the ordinance. At the
13 end of last year on December 23rd, staff received a letter from HCD which identified twelve
14 items within the city's code that they felt conflicted with State Law, that's Attachment E to the
15 staff report. On February 3rd staff met with the HCD staff and discussed those issues and then
16 responded in writing on February 4, 2022 which is Attachment F to the Staff Report. Since then
17 staff has been intermittently reaching out to the HCD staff member contact that we've had the
18 most communication with the try to understand when we might receive a response but we
19 haven't been given any timeline to expect any sort of response back. With that in mind, there
20 are a number of items which are tracked changed and made more obvious in the staff report

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1 and the draft ordinance that specifically looked to address the... some of the comments that
2 HCD provided to staff in its ordinance, however, there were some additional item that staff felt
3 that there were strong points the City had to be able to push back on where the State was
4 trying to say the City didn't have any sort of authority. To some extent, depending on when
5 staff may receive any response from HCD, there may be a need to return back to PTC and
6 discuss those potential changes with them as well. The proposed areas for regulatory change
7 which we discussed previously were talking about basements, potentially allowing basements
8 underneath ADUs within the setback of the property, looking at location standards for noise
9 producing equipment, previously the new standards... the standards had been reduced to allow
10 for noise producing equipment to be, to have a setback of four feet from a property line. PTC
11 had identified support for reducing that further, and additional item was related to how an
12 attached garage to an ADU may be counted towards that structure's size. Additional policy is
13 being considered related to privacy, providing additional protections for residents who may be
14 affected by taller structures closer than they traditionally have been experiencing them.
15 Another item was about refunding impact fees that might have been improperly paid, staff did
16 do an audit of all the accessory dwelling units that we've received since 2020 and confirmed
17 that there have been any units that have been improperly paid, if there are any individuals that
18 have a specific application they felt still might fall within that category, please feel free to reach
19 out to me and we can look at resolving that issue. Another last item was about retracting prior
20 deed restrictions. This is an item that PTC had directed staff to engage with and part of this

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1 change is also dependent on whether or not the City Council will look to also remove any prior
2 deed restrictions which staff will present to City Council as an option. As related to corner lots,
3 the PTC recommended to reduce, provide for a reduction in setbacks for homes that were
4 proposing to develop an ADU on the site in order to encourage them to have a greater setback
5 than a [unintelligible] setback on the street side yard, which is for a corner lot, the longer of the
6 two streets facing the sides for a property. The proposed allowance is to provide for a sixteen-
7 foot front setback and a ten-foot street-side setback in order to try to incentivize corner lot
8 developers to pull their ADU back slightly. Additionally, PTC had recommended to remove the
9 existing requirement for a garage which means that for a home that's propo... a new single-
10 family home that's proposed on the site, they would not need... if they're proposing an ADU,
11 they would not need to propose a new garage in order to satisfy that home's parking
12 requirements. PTC also identified a number of items from the list of items that were previously
13 discussed that they wanted to potentially incorporate into the potential program to incentivize
14 affordable junior accessory dwelling unit development. At that time the PTC, in May of 2020,
15 2021, PTC had identified that of these four items they wanted to have these items presented to
16 them as a program or incentive towards an affordable junior accessory dwelling unit
17 development and then they would vote on whether or not they felt that these policies should
18 be incorporated into an incentive program, which is represented in the draft ordinance as
19 18.09.060 or to vote in said to allow these policies to be applicable to all units, regardless of
20 whether or not they are meeting any affordability category. Those four policies were to allow

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1 for a reconstruction or expansion of non-conforming walls, it was to remove again, the existing
2 garage requirement for all units that meet these affordable market rate... income ratios,
3 exempting these types of affordable units from all impact fees as well as plan review fees and
4 then the last discussion point in the staff report talks about an item that wasn't necessarily fully
5 confirmed at the previous PTC meeting, which was to say that a discussion related to the length
6 of affordability for these units. Lastly, some additional items that staff has recognized were
7 necessary to be able to be changed or were objectives that staff were looking to have modified
8 in the ordinance, in the City's ordinance that were not previously discussed were specifically
9 related to how... what applicable review process represented a new home that was proposing
10 maybe just a primary home, a second unit and a third... an attritionary unit primary ADU and a
11 JADU to identify and clarify that process does not require any sort of architectural review where
12 in other sections of our code in 18.12 that does come up and does specifically say that is a
13 requirement. Staff is also looking to have some clarification on how floor area should be
14 calculated for attached junior accessory dwelling units to add some additional clarification
15 about where or what policies are applicable to anyone who might seek to reconstruct an
16 accessory building in order to convert it into an accessory dwelling unit and if it's relocated on
17 the sight, what sort of standards apply clarification on allowing junior ADUs to be incorporated
18 into a proposed design for a building, not necessarily just a conversion of an existing space, as
19 well as what... where the location for the sanitation facility for those structures need to be
20 located if they are not provided within the junior accessory dwelling unit. How gross floor area

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1 should be calculated given that the City has very specific thresholds of when certain fees are
2 charged based on State Law depending on how much floor area is allowed or lot coverage is
3 allowed on a site. Staff felt it was important to be able to have more clear language in the
4 ordinance, in the City's ordinance to be able to point to for applicants to say or demonstrate
5 how floor area lot coverage should be calculated on a site. Another item is about clarifying
6 when an accessory building is not... or when an accessory building be 120-feet but incorporates
7 an attached patio or porch does not... you know, if that area exceeds 120 square feet it does
8 not become floor area, and lastly it was about allowed accessory structure fixtures, staff has
9 noticed an increase in certain types of plumbing fixtures and other elements added into
10 accessory buildings which for the purpose of again, being clear to applicants what is allowed or
11 what is not allowed within accessory building, staff is seeking input on this language that is
12 proposed in the ordinance as well as trying to provide for additional protection in the event
13 that staff receives complaints about non-permitted second units or non-permitted structures,
14 how those can at times create safety hazards when certain aspects are incorporate, certain
15 fixtures or other aspects are incorporated into them, that are not permitted and not designed
16 appropriately can cause issues. The last one is just about some minor text-based edits to kind of
17 do come code clean up that was missed in the last ordinance update.

18 Staff's recommendation at the moment is to receive feedback on the draft ordinance and any
19 recommendations on proposed changes and based on any feedback and recommendations,

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1 staff will be returning to the PTC before going to the City Council with continued modifications
2 to the draft ordinance. And that concludes my presentation.

3

4 Chair Lauing: Thank you Garrett. Do Commissioners have any questions to address to staff
5 before we go to public comment and then discussion. Commissioner Chang.

6

7 Commissioner Chang: So, I wanted to ask you how we're going to proceed through this
8 because there's so many different pieces to this item that I do have questions, not general
9 questions but kind of like topic specific questions and yet I want to ask them in relatively close
10 proximity to when we're actually discussing that item. So, I just don't know when to ask my
11 slew of questions, but I do not have a general question.

12

13 Chair Lauing: Okay, yeah just on that, I wanted to get Garrett's input on that as well but I
14 thought we should just go through your list of you know, the first seven, I think it was six, and
15 then the ones that were added and just kind of work them through once, not to necessarily
16 take a vote, we can always come back on those, but that's how I was envisioning it, do you
17 agree?

18

19 Mr. Sauls: Yeah, the way the presentation was framed was also just in order as it's shown in the
20 staff report, but like we noticed, we noticed, like I mentioned before, we're not, we don't have

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1 a set deadline that we're trying to target to get to the City Council so if there's a need to
2 continue certain discussions to another day, we certainly can.

3

4 Chair Lauing: He also mentioned in the pre-meeting that this is not something that staff feels is
5 chipped in stone and they want to argue with us about. This is a proposal that, you know, we
6 should all consider together and make any suggestions that we want. So...

7

8 Mr. Sauls: That's correct.

9

10 Chair Lauing: Okay, if there's no other Commissioner questions can we go to Public Comment?

11

12 PUBLIC COMMENT

13

14 Mr. Nguyen: Okay our first speaker, and it looks like our only speaker for now is Randy.

15

16 Mr. Randy Popp: Good evening, Randy Popp, resident and architect part of the ADU Task Force,
17 first I'd like to note a quick thank you to Rachael for her good work and for sharing all her skill
18 with us. I wish her the best of luck as she moves beyond Palo Alto. So, I do greatly appreciate
19 this work that's back in front of you and I hope you can provide some specific direction so this
20 can be resolved tonight. Many of my clients have been anxiously waiting for the results of these

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1 discussions and we're all looking forward to a resolution. Whatever that may be. Looming all of
2 us is the anticipation of the HCD's response but for now, we just need to make some decisions
3 and move on. Please do provide direction where you can and only continue an element of this
4 that you are truly unable to resolve tonight. It's been far too long on most of this when I ask not
5 to push it further. I only received notice of this meeting Monday at 1:00, so I really have not
6 had time to review properly or get clarification on some of the new language staffs promo... or
7 a whole second level, every ADU can be 16 feet above the level of existing finished grade. We
8 know that allowing for either full or partial sub-terranean construction will in almost every
9 instance, lower the height of the upper floor level. I'll again share that in my direct
10 conversations with HCD staff they indicate there can be no restriction for what occurs below
11 grade, and I expect they will articulate that shortly. For tonight, please focus your attention on
12 the affected privacy measures that are proposed, rather than creating arbitrary restrictions on
13 how submerged lower level can be. Next the placement of noise producing equipment should
14 only be restricted if it exceeds the noise ordinance criteria. We don't need a second level of
15 restrictions when the rules already state how loud equipment can be at the property line.
16 Whether it be nine inches, which is the smallest clearance I know of for any piece of equipment,
17 or four-feet or ten-feet the noise it generates can't exceed the decibel level measured at the
18 property line. Why create a restriction for placement that has no added impact other than
19 cause poor aesthetic or design choices. Please be logical and remove this requirement. The
20 words between ADUs and garages, they just should not be restricted. Let's be clear that if

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1 someone is willing to skirt the regulation and use a garage as a living space, they are willing to
2 illegally add a door. I would prefer to have the structural impact of that, and the construction of
3 that item be properly inspected. The concept of restricting this serves no manageable purpose.
4 I'm very glad to see the inclusion of expansion of non-conforming structures to improve energy
5 compliance and updating structural requirements, however, limiting this to only ADUs that are
6 affordable is completely unreasonable. People will not trade a 30-year restriction, a 10-year
7 restriction for a simple concession like this. It is better to preserve existing structures for so
8 many reasons and I hope you will just move this to be allowed for all projects that convert
9 existing structures. Finally, I'm unclear what the result of the clarification on accessory buildings
10 with covered porches or patios is attempting to achieve. The proposed changes to the section
11 1804.80 do not seem to be included so I'm unable to view what's changing. I hope you'll delve
12 into this before the discussion is complete tonight and remember that if the total does not
13 exceed 800 square-feet, it should be interpreted consistent with the State Exemption
14 definitions. I'll stick around for discussion and will welcome any requests for clarification or
15 support as you progress tonight. Thank you for giving me an extra thirty seconds. I appreciate
16 your discussion.

17

18 Chair Lauing: Okay, thank you.

19

20 Mr. Nguyen: Chair that concludes public comments for this item.

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Chair Lauing: Great. Thanks. Yeah, so overall, all this stuff is very technical, very dense, very well written actually, but still very technical, so, I hope that Garrett will be giving us guidance, verbal guidance as we go through this, and can incorporate alternative points of view if you want to tell us that as you're going through, or we can raise those, but let's have a good discussion on it. We got this packet I think it was Thursday night, so it was a lot to kind of press through. Commissioner Roohparvar.

Commissioner Roohparvar: I have a question for Mr. Sauls, I forgot to ask earlier.

Mr. Sauls: Sure.

Commissioner Roohparvar: Are most of the ADUs we're seeing modular built or are they crossed with poured foundation?

Mr. Sauls: We have seen more modular proposed, but I wouldn't say that they are the predominant pattern. It's still mostly, I guess someone called it stick built, ground up.

Commissioner Roohparvar: Thank you.

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1 Mr. Sauls: We have, I think, we've had a Abodu try and propose kind of a modular approach to
2 the design in which case it's not necessarily a preapproved ADU more than it is pre-prepared
3 comments to an application or when Abodu would come in and supply an applicant with a
4 project, staff has provided them, kind of a traditional list of comments that we usually ask when
5 it comes to an ADU project so in general or in theory at least, there's this kind of this pre
6 knowledge available to them to respond. So...

7

8 Commissioner Roohparvar: Got it. Then are we looking at or approving unique forms
9 foundations such as helical piles or are we not accepting those right now and just focused on
10 concrete poured foundation.

11

12 Mr. Sauls: I can't answer for the building department, mostly because we don't, planning at
13 least doesn't specifically review the foundation of a building. I haven't heard any conflict... I
14 haven't heard of any conflict so far where the building department has said ooh we can't do
15 any kind of foundation like this, usually what might be more traditional impact is a tree root. So
16 they may do like a pier foundation to try to move around those tree roots, but I haven't heard
17 of any instances yet where they've said this foundation design just doesn't work.

18

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1 Commissioner Roohparvar: And then I guess my final question is are we or have we considered
2 a preapproval program such as Santa Fe and Oakland have? I know Oakland is going through
3 some stuff right now but like for example LA, San Diego (interrupted)

4
5 Mr. Sauls: We did initially have some funding I think it was from an SB2 funding and Rachael
6 you can probably clarify and that ended up getting put towards some other aspects of the
7 Housing Element...

8
9 Assistant Director Tanner: That's correct.

10
11 Mr. Sauls: But I have also heard that San Jose hasn't or at least their staff over emails that I've
12 seen have communicated that their preapproved design hasn't quite taken off, as I think they
13 were hoping it might have.

14
15 Commissioner Roohparvar: Interesting. And then what is our turn-around time right now, given
16 that we're out of the pandemic now for approving ADUs, I mean like how fast is the city doing
17 it?

18
19 Mr. Sauls: I don't have that answer off the top of my head but I can look at the quarterly report
20 that we provided to City Council recently and get that information for you.

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Commissioner Roohparvar: Great. Thank you.

Assistant Director Tanner: And I do believe there's State statute for a minimum number... a maximum number of days that we have to approve them. Hopefully we're faster but that does provide kind of the maximum approval timeline.

Commissioner Roohparvar: Yeah, because I was just... I think I was reading recently in LA they're doing, I want to say two week turn arounds for their preapproved ADUs, like from the time you submit the application until the time you get approval. And I was wondering if we're like closer to those more aggressive cities like LA or San Jose, or are we on the like three or four month... (interrupted)

Mr. Sauls: We do have an internal process which for ADUs has been reduced to a two week review period, so they are reduced during that initial review period to two weeks and then subsequence the middle of seven days but obviously it will just depend on when an applicant responds to comments and resubmits back to us to be able to respond.

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1 Commissioner Roohparvar: And then are we getting a lot of questions about this, because I
2 know San Jose has a like a hotline that they've instituted or is that not an issue for us? I think
3 they were getting inundated with interest and questions at first.

4
5 Mr. Sauls: I think we always, everyday is a new ADU question. It's been that way since 2017
6 really. It's been kind of a big-ticket item for most people. But unfortunately, at the moment we
7 don't really have staff to have just one designated individual as the only person doing ADU
8 projects, so it is still spread out amongst all of us.

9
10 Commissioner Roohparvar: Thank you.

11
12 Chair Lauing: Commissioner Chang.

13
14 Commissioner Chang: So before we leap in, I was looking at this and I have a process
15 suggestion. So if we're going to step through everything, I was wondering if it might make sense
16 to go through, like if you look at package... packet pages 14 and 15, if we go through A-E in that
17 order except that we skip item D, Incentives for affordable ADUs, and move that to the end just
18 because I feel like the affordable ADUs discussion, at least my recollection of our prior
19 discussion that we had last year, it's pretty sticky. And I think that we might be successful in

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1 getting through a lot of the other ones and kind of being able to move those forward and so
2 that's just my suggestion.

3

4 Chair Lauing: Any other thoughts on that? That's perfectly fine with me because I think that's
5 going to be the longest of the shortest, depending on how we intend to pick that one up.

6

7 Mr. Sauls: It was only a short six-hour PTC meeting when we had that discussion.

8

9 Chair Lauing: Okay, so then we'd be starting on basically on page 16, I think with the text for
10 basements and the idea is to discuss each one of these ... we'll that's not really a change
11 though. But that's fine, if you want staff to speak to the HCD letter we can have them do that. It
12 was in the packet but if you'd like to have more of a discussion.

13

14 Commissioner Chang: Well, I think it's in the ordinance changes so I just think that we should
15 officially sign off on it.

16

17 Chair Lauing: What would you like to say Garrett about the staff's response to HCD?

18

19 Mr. Sauls: Yeah so I thought it was a pretty productive conversation that we had in February
20 about their language, some of the items I think as you'll probably note in the draft ordinance

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1 that there may be some more, the language changes are more clarifications and I think that was
2 something they were highlighting in their report a number of times, just to give additional
3 clarification on the intention or the language specifically or changing the language specifically
4 about what was incorporated into the ordinance in 2020 and as we noted there are number of
5 items that were more controversial and more impactful to City's current ordinance that staff
6 had raised as an issue to HCD and responded to HCD in that letter. And so those are more of
7 the items that I think we're waiting to hear a response from because that again like I said has
8 more substantive impacts to changes that we're proposing. Like I said, maybe a little bit more
9 language changes and there's some additional text added in into the draft ordinance where it's
10 really kind of talking about clarifying that under State law units provided under table one, which
11 is representative of government code section 65.85 2.2E that those provisions are also provided
12 in the sense of that these are still kind of boundaries of what has to be done or what could be
13 approved or allowed to be approved on the site and that items that are within table two, you
14 know these units do have additional regulations that are associated with them but there still
15 needs to be kind of that base allowance of that type of unit or that 4-foot setback, 16-foot
16 height, 800-square foot ADU.

17

18 Chair Lauing: Go ahead Commissioner Chang if you had follow-up questions.

19

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1 Commissioner Chang: No, so I didn't have a question I just wanted to say that I support staff's
2 recommendation to proceed with the ordinance update with the small changes and then wait
3 to adjust any proposals base on, since we haven't heard back from HCD, so to wait for the rest
4 of them. So, I support the staff recommendation.

5
6 Chair Lauing: Okay. I'm seeing nods on the dais here. No other comments on that? Okay. Then
7 let's move on to basements. Thank you.

8
9 Mr. Sauls: For the purpose of this discussion, I would ask the PTC, do you want me to within
10 each of these categories, because there is a lot of it, would you like for me to kind of go through
11 and reiterate the issues?

12
13 Chair Lauing: My answer would be no, but I want to ask my colleagues which is that, we read it,
14 and they're here and we've seen it two or three times so I think it's a point of asking questions
15 or raising objections so, I would suggest we just go from Commissioner to Commissioner for
16 asking questions. Is that okay with everyone? Then Commissioner Hechtman is up.

17
18 Commissioner Hechtman: So, I'm just wondering if for these discreet items if Mr. Sauls has a
19 bullet point page for that item, if so then as we go through each one of them it might be useful

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1 to throw that up on the screen so we can look at that but if he doesn't have that then I can
2 proceed as the Chair suggested.

3

4 Chair Lauing: That's fine.

5

6 Mr. Sauls: Sure, so I can share my screen as you see here, it's kind of a specific language related
7 to the basement changes. So this is in 1840... (interrupted)

8

9 Chair Lauing: Wait so are we going to get to the ordinance... (interrupted)

10

11 Commissioner Hechtman: That wasn't necessarily my intention, that we look onscreen at
12 ordinance language, you know in some of our items we just had bullet points as part of a staff
13 report that sort of guide us to some open issues. For example in our staff report on page 16, we
14 have four bullets, things that were discussed at our hearings a year ago February (interrupted)

15

16 Chair Lauing: That's what I thought we were going to discuss.

17

18 Commissioner Hechtman: Yeah, so it seems like we don't necessarily have any augmented staff
19 slide show for that so let's just talk about the staff report.

20

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1 Chair Lauing: Yeah, I think if we go through sort of the text it's going to be better for us to get
2 our issues on the table before we start wordsmithing our ordinance so let's move into the top
3 of page 16, there are four bullet points and anyone that wants to jump in and ask questions or
4 say good to go or whatever on that one. You still have your light on Commissioner Hechtman,
5 go ahead.

6
7 Commissioner Hechtman: Yes, so I've got a couple issues that I'd like to talk about on
8 basements. The first one and I guess they're both on packet page 16, the fourth bullet point is
9 that the habitable area of basements count towards the units gross floor area and again, these
10 discussions we had were over a year ago and frankly we've done a lot since then, and I'm not
11 remembering them very clearly so I wanted to ask staff a couple of questions just to remind me
12 and really set the table. My memory is for the primary residence, habitable basements don't
13 count towards gross floor area is that right?

14
15 Mr. Sauls: That's correct.

16
17 Commissioner Hechtman: Alright, and for a primary residence we have formulas that limit the
18 overall square footage of the... of the gross floor area of the property on the lot size...

19
20 Mr. Sauls: Correct.

-
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Commissioner Hechtman: Alright and so that's the upper constraint, correct?

Mr. Sauls: As it relates, yes for anything above ground that's not considered towards floor area where a basement there's some technical ways that it could, but anything above ground in that instance would be based on that limitation.

Commissioner Hechtman: Okay, so then I suppose my comment for group consideration on that particular bullet point is I'm not... I'm not remembering or thinking of a good reason why we'd want to impose on ADUs a limitation that is not imposed on our primary dwellings if the purpose of the ADU is to provide additional bedrooms on existing parcels with a primary residence, because it seems like allowing... well, if you, if you require the underground area that is habitable to count towards the gross floor area, then that constrains the size of the ADU overall, which I think is the purpose of anyone supporting that notion, but when you constrain the size of the ADU, you constrain the number of bedrooms that can be added to our housing stock in Palo Alto, so, and honestly I don't remember how I felt about this when we talked about it a year and a half ago but right now I'm feeling like maybe we should not make that requirement for ADUs that does not apply towards the primary residence.

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1 Assistant Director Tanner: And not to speak on behalf of the other Commissioners I think one
2 reason from the previous discussion was around the tree roots and you know we don't always
3 anticipate, we can't always anticipate with our code where the ADU will be located in relation
4 to trees, I think that was one topic that was considered last time, it just had perhaps a
5 constraint that by counting the habitable space of the basement as part of the size it might just
6 overall constrain the size and possibly lead to decrease conflict with tree roots, it still could
7 conflict with tree root, it doesn't necessarily eliminate that but that was maybe one reason, not
8 that that's going to make or break the conflict, but I think that was from last years discussion.

9
10 Chair Lauing: Did you have any input on that one Garrett on Commissioner Hechtman's
11 comment?

12
13 Mr. Sauls: Yeah, I think it was also a policy that had been the case since 2017 as well, that any
14 sort of basement proposed for an ADU with City Council at that time in 2017, and kind of
15 forward, had adopted these spaces below grade would count towards maximum size of that
16 unit.

17
18 Mr. Yang: So, if I could just kind of jump in just for a second.

19
20 Chair Lauing: Please do.

-
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2 Mr. Yang: I want to just differentiate between floor area, gross floor area as Palo Alto regulates
3 it and this concept of the overall size of an ADU because State Law does limit the maximum size
4 of many ADUs at twelve hundred square feet and so even if we say we won't count it as gross
5 floor area, I think we would still need to count it, you know, towards that maximum size of
6 ADU.

7

8 Chair Lauing: Commissioner Roohparvar.

9

10 Commissioner Roohparvar: Yeah, my take on this is I actually do think that it should be
11 counted, I think that was the intent is how I understand it, from what... I understand your point
12 Commissioner Hechtman, but that's just my kind of viewpoint on it and what I felt was the
13 intent of like the State regulation and then I had another question for Commissioner (Mr. Sauls)
14 Sauls, to the extent that anything is attached to the ADU and encroaches into the four foot
15 setback such as like HVAC or anything, does that count, does the four-foot setback have to be
16 from the eave that drops or if there's an HVAC unit that encroaches does it have to be from
17 that? How does that work?

18

19 Mr. Sauls: Yeah the setback would be to the wall rather than to the edge of the eave line, right,
20 in that example that you gave, and then also when we adopted this new ordinance in 2020 we

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1 also said that HVAC unit are noise equipment that also have to follow that four-foot setback.
2 So, the structure for the unit itself can't be encroaching into those spaces even if it's attached
3 to that ADU.

4

5 Commissioner Roohparvar: So, the four foot goes from the furthest point from like the HVAC.

6

7 Mr. Sauls: You could, yes, if that was the closest point of the structure relative to that four-foot
8 setback it could. Usually that is not the case, it's usually more the building is... the walls
9 themselves is kind of situated at those areas.

10

11 Commissioner Roohparvar: Got it. Thank you.

12

13 Chair Lauing: Commissioner Chang.

14

15 Commissioner Chang: Yes, I have a question for Mr. Sauls, I was hoping that you could speak a
16 little bit about what the public commenter mentioned regarding basements and State Law and
17 what we can and can not control.

18

19 Mr. Sauls: Yeah, so what Mr. Popp was talking about is specifically about units within table one
20 of our municipal code which relates to the 65852.2E subdivision units that I was talking about

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1 earlier where the State Law is fairly broad to say these are kind of the setbacks, these are the
2 square footages, these are the heights that have to be allowed for these types of units and so
3 City can't necessarily restrict those types of units to be developed however when units go
4 beyond those provisions that is where the City does have the authority to regulate it further.
5 Specifically, as noted in the staff report, some of the conversation that happened a year and a
6 half ago was related to the graphic that's included in the staff report that talks about having a
7 basement fully underneath grade, sunken partially underneath grade or not and what could
8 provide... what could be built within those spaces. Some of the issues that came up when it...
9 some of the issues that were initially highlighted during the adoption of the ordinance were
10 concerns related to privacy and second floor spaces or second floor equivalent loft type spaces,
11 how the City is able to provide additional protections for those and where we do have the
12 authority to regulate it, staff had identified in the previous reports as well as re-emphasized in
13 this one that requiring basements to be fully below grade does provide at least the ability to say
14 how much space is built above grade. If it's up to 16 feet in general, you can really only achieve
15 a loft within that space rather than a whole floor level. And so, the difference from having a loft
16 versus a whole floor level is that people don't necessarily occupy the loft in the same way that
17 they might occupy an entire second floor. So, to some extent that would provide some
18 additional protection in privacy to limit how often or how long people may be spending up in
19 those spaces through a bit of that restriction where a partially sunken space will effectively
20 provide for that two-story area which again is kind of a center image in the staff report.

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Commissioner Chang: Thank you that really helps in terms of clarifying then that we're talking about a restriction that would apply to ADU's that fall within Table Two.

Mr. Sauls: Correct.

Commissioner Chang: So, we can't... it's still within our purview to restrict those. And I guess then, based on what you've said, I was leaning towards that left most diagram on packet page 16 where we do, where we do require the full... a full basement to be underground in order to protect the privacy. So that's kind of where I'm leaning on that issue.

Chair Lauing: Other Commissioner comments... Vice-Chair Summa.

Vice-Chair Summa: Thank you. I had a question about bullet 3, it mentions that a new basement must not negatively impact tree roots on adjacent lots and that... but it also, I think that it's implied that it can't hurt protected trees on its own lot, right? That just didn't need to be there? Okay. And then with regards to the basements, are we currently allowing basements under ADUs, or we haven't up until we make this decision. Okay.

Mr. Sauls: For Table Two units we do not currently permit basements.

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Vice-Chair Summa: Okay. So, I'm not a big fan of basements because of ground water issues and having more and more basements but it seems to me that if other people can build basements why can't the ADU have a basement for fairness, and I'm very concerned about tree protection, but I think our new tree ordinance with cover that. I think it is appropriate to count basements as floor area for ADUs only because they are limited in size by State Law and so I don't... it makes sense to me. I think that given that other people can build buildings in residential neighborhoods with full basements, I think it's only fair that we do it here as... but I do, you know, the more that we disrupt what's going on underground, its not... there are impacts, but out of fairness I guess that's kind of where I'm leaning and I don't see why we shouldn't allow a full level underground like every body else gets so, given that I'm not really happy about more and more and more things underground, disrupting ground water and stuff but that is only seems fair, I guess that's kind of where I fall out on this.

Chair Lauing: Alright, on the first one I'll make a couple quick comments, I just want to confirm in bullet point one, let's see, we don't want it in the four-foot ADU/JADU setback, is that for physical reasons, like ground water and things like that? And that's existing right now.

Mr. Sauls: Yeah, the four-foot setback was to mirror the setback for the second unit.

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1 Chair Lauing: Okay. And then I left my very very large plan reading magnifying glass at home so
2 could you tell me on Attachment C, page 16 on the left side, what is the... is it still 16-feet? It
3 looks like it's still 16-feet from grade to the top of the building, right?

4
5 Mr. Sauls: Yeah, in the left hand image where you're talking about level one above the grade
6 level basement, is that the one you're talking about?

7
8 Chair Lauing: Yeah.

9
10 Mr. Sauls: The above grade shown in that example is ten feet-seven inches. The left most
11 image.

12
13 Chair Lauing: Okay.

14
15 Mr. Sauls: And then the other two, the middle ... (interrupted)

16
17 Chair Lauing: The other two are sixteen feet, I wrote that down that's great. Okay and you're
18 saying that you basically are recommending the one on the left for privacy and you don't see
19 any downside to that.

20

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1 Mr. Sauls: Yeah, I think the conversations that happened last year were talking about partially
2 about basements and also about privacy and so we wanted to make certain that if the PTC
3 wants to forward these Table Two units, ensure that second floor levels at a four-foot setback
4 are maybe prevented more often than not, than requiring something to be fully below ground
5 would be a way to achieve that rather than saying the basements can occur in kind of a sunken
6 or partially below ground condition like it's shown in the center image.

7

8 Chair Lauing: Yeah, that's what I thought. I just wanted to confirm that you were signing off on
9 that. Any other... Commissioner Reckdahl for first round of comments.

10

11 Commissioner Reckdahl: Why are you making the restriction of habitable basements as
12 opposed to all basements, for this final bullet?

13

14 Chair Lauing: What was that question again? Get close to the mic.

15

16 Commissioner Reckdahl: Yeah, sorry, mask is complicating things. Why are we distinguishing
17 between habitable basements and just all basements on that last bullet?

18

19 Mr. Sauls: Yeah, so you're talking more like an unfinished crawl space or something, like a
20 storage basement.

-
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Commissioner Reckdahl: Why did we make that distinction, was there a specific reason or is it just you were making that distinction between a crawl space and a fully finished basement.

Mr. Sauls: Well, currently again for these Table Two units, no below grade construction would be permitted to occur. Habitable is what we would assume, or creating habitable space is what we would assume people would be doing if they are building underneath, rather than trying to store equipment or any other aspect of towards the unit so, I think additionally we just wanted to identify what is kind of the expected height for the habitable space as well, so that that wasn't lost.

Commissioner Reckdahl: So, if we have a basement in a house right now you have certain fire escape rules that have to be followed, would those rules still apply to ADUs?

Mr. Sauls: Yes, and that's also identified in the draft ordinance that the window wells or any sort of below grade patio would also need to follow the four-foot setback.

Commissioner Reckdahl: Okay and how about if that basement in the ADU is not habitable, would that still require the same window wells and escape.

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1 Mr. Sauls: I'm not too... if it's not habitable, I'm not to certain if it would, I would need to check
2 with the building department on it, but we can certainly get that clarification.

3

4 Commissioner Reckdah!: When I look at this last bullet, I think what's going to happen is people
5 are going to have basements that are six and a half feet deep, so they don't count, and then
6 they'll put a bedroom down there and they won't be safe. So, it seems strange that we would
7 make that distinction between habitable and non-habitable basements when I don't see any
8 purpose in doing that.

9

10 Mr. Sauls: I think there could also... if you feel that's the case then we can certainly add
11 additional language that even says there can only be habitable basements underneath to which
12 the opposite is that you couldn't do anything that isn't that, right.

13

14 Commissioner Reckdah!: Yeah, exactly. Okay thank you.

15

16 Chair Lauing: Commissioner Roohparvar.

17

18 Commissioner Roohparvar: Thank you. I just piggy backing on that real quick, I think that makes
19 sense what Commissioner Reckdahl raised because I can see some people going six and a half
20 feet and putting a bed in and you don't have the proper precautions so that seems like a valid

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1 point unless others have different thoughts or opinions on it. But I also, on the topic of
2 basements and privacy and setbacks, I had a question relating to decks, what is Palo Alto's
3 position on decks attached to ADU does that count as well towards the gross floor area or are
4 there privacy concerns because now you're lifted off the ground and you're looking into your
5 neighbor's yard, like have we thought about that? And I was just curious what our position is.

6
7 Mr. Sauls: So, if it creates a footprint then it would be counted towards the lot coverage for the
8 unit. We do currently, if I remember correctly, in our ordinance have language that specifies
9 that any sort of... related to the privacy section of our code that actually says if there's any sort
10 of deck that there needs to be a five-foot-six-inch tall screen wall at that level to be able to
11 provide privacy protection for adjacent properties and that's similar metric we applied in our
12 individual review program to rear balconies.

13
14 Commissioner Roohparvar: Got it, thank you.

15
16 Chair Lauing: Commissioner Hechtman.

17
18 Commissioner Hechtman: Thank you. So, thank you outgoing Assistant Director Tanner for
19 reminding me about the tree discussion, so, one thing that's different in our discussion tonight
20 from a year ago February is we now have this, and Vice-Chair Summa referenced it, this new

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1 much more robust tree protection ordinance so I just want to confirm that there's no
2 exemption of ADUs from that ordinance, or is there?

3

4 Assistant Director Tanner: I think where the tree ordinance and State Law would butt, and
5 maybe Mr. Yang can correct me, would be... we would have to allow at least an eight-hundred
6 square foot ADU. So certainly, we would encourage an applicant to move or reconfigure an
7 ADU so that it was not disturbing a tree root but at a certain point, if you had a very... a certain
8 lot that couldn't accommodate it anywhere else or the tree roots were very expansive or
9 something, I believe the ADU, we would have to permit the ADU even if it would damage or
10 potentially damage the tree.

11

12 Mr. Yang: Yeah, that's correct. In a way, one of the clarifications we're adding in, global
13 clarification in response to the HCD letter is that, you know, none of these regulations under
14 Table Two can operate to preclude an eight-hundred foot ADU, so, you know compliance with
15 the tree ordinance is one of those regulations if compliance with the tree ordinance would keep
16 you from building an 800-foot ADU, then that would... State Law would prevail there.

17

18 Commissioner Hechtman: Okay, thank you for that. And then to follow-up on something
19 Counsel Yang said before, that State Law has this overall twelve-hundred square foot max for
20 an ADU, our Table Two ADUs, do they have an eight-hundred square foot max?

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Mr. Sauls: They have a nine hundred and one-thousand square foot max.

Commissioner Hechtman: Okay, so if we don't include gross floor area for a habitable basement then what somebody building an ADU could theoretically do is exceed that nine-hundred or a thousand square foot maximum size in our ordinance, up to the twelve-hundred square feet, you know I'm talking about practical space, that State Law allows. That would be the cap. So, they could get something outside of our ordinance without this capture provision. Do I have that right?

Mr. Sauls: To my understanding, we would need to update our ordinance as a part of this language that it could do that. If I remember correctly and Mr. Yang can correct me if I'm wrong, that maximum is something that cities can adopt, it's not required that they provide that twelve-hundred square feet, which is why we adopted the nine-hundred square foot maximum, and a thousand square foot maximum for a two-bedroom unit. So, under our current ordinance we would effectively say you could have a thousand square foot two-bedroom unit, two bedroom or more unit, and that would be the maximum.

Commissioner Hechtman: Okay. Mr. Yang?

-
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1 Mr. Yang: I think I understood your question Commissioner, to be if we said that basements
2 don't count towards gross floor area, then someone... but you know if we consider our
3 thousand square foot maximum or nine-hundred square foot maximum to be based on gross
4 floor area, then there would be some room there as you described, but you know, if that is our
5 intention to allow that, I think we should be very clear about that in the ordinance language.

6
7 Commissioner Hechtman: Okay, I may have been thinking about it the other way. If somebody
8 comes in with a proposal for a thousand square feet above ground, that counts, they're maxing
9 what our ordinance allows, and I think that if in addition to that they have 200-square feet
10 below ground, if we're not counting that, then they are effectively getting twelve-hundred feet
11 of habitable space when the intention of our ordinance is to limit them to a thousand in which
12 case we want to, as this bullet says and as we've discussed a year and a half ago, include the
13 gross floor area to stop people from exceeding the functional habitable square footage. So,
14 okay, that was really helpful. And then I just had a couple of practical questions related to the
15 basement. So, if I'm understanding this correctly, we can... we currently don't allow basements
16 for Table Two ADUs right, but we have to allow them if requested for Table One ADUs, do I
17 have that right?

18
19 Mr. Sauls: Correct.

20

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1 Commissioner Hechtman: Alright, and then have we been presented with applications for
2 Table One ADUs that included a basement?

3

4 Mr. Sauls: I have not seen any, no.

5

6 Commissioner Hechtman: Okay, so I was wondering if this might be a conceptual discussion
7 we're having because the cost of building a basement, of course, is dramatically higher
8 basically, you know, not even considering the environmental issues such as Vice-Chair Summa
9 raised, and with the Chair's permission, what I'm curious about is whether there's an appetite
10 for Table Two basements and with your permission I'd like to ask Mr. Popp who's part of the
11 ADU Task Force if you know, in talking to members of the public and potential clients, whether
12 he's seen that appetite or not. I'm wondering how realistic of an issue is this for us.

13

14 Chair Lauing: Yeah, why does that matter if we wanted to do this anyway? Or didn't?

15

16 Commissioner Hechtman: I'm wondering if we're spending a lot of time on something that is
17 cost prohibitive and so it doesn't matter.

18

19 Chair Lauing: For one or two?

20

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1 Commissioner Hechtman: Pardon me?

2

3 Chair Lauing: For Table One or Table Two?

4

5 Commissioner Hechtman: Well, right now we're talking about Table Two (crosstalk) We're
6 thinking about allowing it and I'd like to know if there's a market and an appetite for a Table
7 Two type ADU with a basement.

8

9 Chair Lauing: Okay.

10

11 Assistant Director Tanner: Unfortunately, I don't see Mr. Popp in the attendees list...

12

13 Commissioner Hechtman: Oh, he dropped out. Alright.

14

15 Assistant Director Tanner: If he is listening, he can call back in and we can let you all know but
16 I'm not seeing him there.

17

18 Commissioner Hechtman: Alright, then let's move on.

19

20 Chair Lauing: Okay. Was that your last point?

-
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Assistant Director Tanner: I think I would just say that we have been approached by some members of that group to have a below grade ADU, person of the ADU below grade, I think at least, again it's been some time so, I think there was certainly an appetite for partially below grade. I think if you're looking at page 16, kind of the middle and most right option, again that would allow, and part of what I'm understanding with the rationale then there could be two full floors, which could be good or it good be not good depending on your perspective about two story buildings.

Chair Lauing: Okay, so let's review process. We can either just kind of conclude this and move on to the second one or we can see if we have agreements and want to say for tonight it's in, any preference on that? Commissioner Chang.

Commissioner Chang: Yup, I think if we can get agreement and just be done with it, that would be great.

Chair Lauing: We can do that and if we can't then we can do a parking lot.

Commissioner Chang: Yes, I like that idea.

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1 Chair Lauing: So, what I heard was that one change would be requiring basements to be
2 habitable and seven feet, or words to that effect, I seem to be getting some nods, any other
3 comments on that? Commissioner Hechtman.

4
5 Commissioner Hechtman: Well, I guess the concern I have about taking this approach is we're
6 looking at the text of the staff report but staff has also provided us with the draft ordinance
7 that has some changes in it and for some of these items, they've kind of built a change in and
8 on some of those items I've submitted comments that I think all the other Commissioners have
9 seen, I don't remember if there's one on the basements but I'm wondering...

10
11 Chair Lauing: What seems like what we decide on there still has to be put into the words, so if
12 we've changed anything with this, then it has to be changed in the ordinance.

13
14 Commissioner Hechtman: Okay, but we haven't looked at whatever the language of the
15 ordinance might already be there in the staff additions to see if they've already, for example,
16 included that all habitable basements shall count towards the unit's gross floor area and have
17 defined habitable basement as seven feet. So, I'm just a little nervous about kind of approving
18 concepts and not touching the ordinance language if there is ordinance language.

19

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1 Chair Lauing: Right, I mean if we get through all of this tonight, then we have to go back and
2 get through the whole ordinance itself.

3

4 Commissioner Hechtman: Okay.

5

6 Chair Lauing: And then make a recommendation. So, there's not going to be a vote here that
7 can't be amended when we get to the ordinance if we think that they're out of sync.

8

9 Commissioner Hechtman: Okay, so then your concept at this point, if we can develop some
10 consensus is to have a... (interrupted)

11

12 Chair Lauing: My concept is conceptual.

13

14 Commissioner Hechtman: Right. But to say you know, all or a majority of us agree conceptually
15 this is how we should handle Item 1-basements. Right, and then as you said, once we get
16 through all the items and then we come around to the language of the ordinance, then we can
17 say (crosstalk) already in the ordinance, if it is, then let's look at the language, if it's not then
18 we're going to be directing staff to bring a revised back ordinance, back to us. Okay, that makes
19 good sense. So, I'm supportive of that process.

20

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1 Chair Lauing: So, picking up on that then, are you in agreement on the habitable basement at a
2 standard of seven feet required?

3

4 Commissioner Hechtman: I am, as reflected in the staff report, the last of the four bullets with
5 the footnote too, that's attached to it on packet page 16.

6

7 Chair Lauing: Well, I think the difference that Commissioner Reckdahl is recommending is it be
8 required to be habitable i.e. seven feet. That's how I understood it. So, it could not be a storage
9 area of six and a half feet.

10

11 Commissioner Hechtman: Okay. I am supportive of that concept to avoid manipulating with a
12 six-inch delta our process. I did like Mr. Sauls idea though of basically... the concept of adding
13 language that in a Table Two ADU, all basement space is habitable space. So that would even be
14 four-feet. So, if you know that going in, you're going to design accordingly.

15

16 Chair Lauing: Okay, are there any other changes from what we got in the staff report after our
17 discussions. Commissioner Chang.

18

19 Commissioner Chang: I don't know that if it's a change so much as staff asked us if we had a
20 perspective on how basements should be implemented with respect to the three diagrams on

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1 packet page 16. And I think we need to reach consensus on A) whether or not we want to
2 dictate how a basement should be implemented and if so, specify how that should be, and so, I
3 had gone out there and said that I think that we should have the level one, above grade and
4 one level basement, the left most picture of the appropriate implementation of the basement
5 but I'm not sure if we've agreed on that yet.

6

7 Chair Lauing: No, you're right to ask the question. That... my line of question was if that had
8 been signed off by staff as the appropriate one and so I'm in. What about other people? Vice-
9 Chair Summa.

10

11 Vice-Chair Summa: So, after hearing our Council's advice on... with regards to tree protection,
12 whatever it is, I'm less happy about basements because if there's going to be this work around
13 thing saying we can't put... you know, we have to be able to put a ADU someplace on the
14 property and if we can't find a place that's not in conflict with the property's own trees or the
15 neighbors trees, they get to do it. So, that makes me a lot less happy about basements than I
16 was before I heard that explanation, so, particularly next-door neighbor's tree. But, I mean we
17 don't prohibit basements, well we do prohibit basements if they come into conflict with
18 protected trees. So, and we can't do that with an ADU if the State says you have to find a place
19 on the property. So...

20

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1 Commissioner Reckdahl: Do you have to find a place on the property for a basement ADU or
2 just for an ADU?

3

4 Assistant Director Tanner: So, I think at this point and again I'd welcome it Garrett if you have
5 examples because I think it's good to think about scenarios because eventually the scenario will
6 come before us, I can almost guarantee that at some point in the ADU program's future, so I'm
7 not sure if it's a frequent problem, but again, end of the Table One the State mandated you
8 have to allow this other property, if push came to shove, they would be allowed to have a Table
9 One eight-hundred square foot ADU which could include a basement if that's what they
10 proposed. And we couldn't find a different solution. And so, this would be an addition to Table
11 Two and then just reminding folks that Table Two is kind of intended to be our local ADU
12 program, that's why there's a little bit bigger units so if somebody wants to do something
13 bigger, then they have to follow a few more restrictions, kind of with the ADU program here.
14 So, this would be making those two programs equal at least in terms of allowing basement. I do
15 believe Table Two it's still requires protecting the trees and so for example if someone said I
16 want to build a thousand square foot ADU and a basement and it didn't comply with the tree
17 ordinance, then they would have to kick back over to Table One and then they would have to
18 reduce it to an eight-hundred square foot ADU. So, hopefully I didn't confuse you further, but I
19 think you are correct Commissioner [Vice-Chair] Summa this does open the door to more
20 basement under ADUs and could potentially have some conflict with trees although, again,

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1 under Table Two they would be required to avoid those conflicts otherwise they would have to
2 go back to Table One. Is that right? Albert, sorry, I see you... (Crosstalk) I probably said
3 something wrong. (Crosstalk)

4

5 Chair Lauing: Counselor Yang needs to chime in.

6

7 Mr. Yang: Thank you Chair. To clarify there, so they have the option of going back to Table One,
8 but even under Table Two, where we have the ability to adopt these additional regulations, we
9 do still have to find the space on the lot for an eight-hundred square foot ADU with four-foot
10 setbacks, and sixteen-feet of height. So, that doesn't... often that doesn't mean we have to
11 require a basement, but sometimes, it might if the rest of the lot is so constrained. So, Yeah, I
12 mean it's very hard to speak in generalities because these situations are all so sort of site
13 specific. But conceivably there could be a situation where we would have to allow under Table
14 Two, a basement so that they could reach eight-hundred square feet.

15

16 Chair Lauing: But that's if we allowed a basement at all, right?

17

18 Mr. Yang: Well, you know, even if we said that basements are prohibited, if someone had a site
19 with such unique constraints that they couldn't get eight-hundred square feet without a
20 basement, we'd probably have to allow a basement there.

-
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1

2 Assistant Director Tanner: And that's why I think the hypotheticals are important to think
3 about, but I don't think the majority or even a small fraction of the proposals we see, in part
4 because the basements are so expensive. So, I think it is good to think about these
5 hypotheticals but Garrett, you can correct me, I don't think that we're being inundated with
6 basement applications for ADUs, but again the program is still relatively young, I mean the ADU
7 program has not been around, you know, that long.

8

9 Chair Lauing: I'm still not clear what I think Vice-Chair Summa's asking about. It is, if we didn't
10 have an allowance for basements but somebody was allowed to do an eight-hundred square
11 foot ADU it wouldn't be with a basement, so it wouldn't be going as deep to wreck trees so, is
12 that still a more conservative approach? I'm just trying to get clarity.

13

14 Assistant Director Tanner: I think that Mr. Yang is just trying to answer saying like generally yes
15 to what you are saying, however, if there were an example of a lot that was so constrained and
16 the only way they could get their eight-hundred square foot ADU was to have a basement, we
17 would as a City would be required to approve that permit. So I think that the answer right?

18

19 Mr. Yang: Yeah, and I guess it's the same answer though, I don't think it really changes much
20 from a tree protection perspective whether we allow basements or not. Because even if we

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1 allow basements, we are also saying when you build your basement, you have to comply with
2 our tree protection ordinance. And you know, the only exception to that would be if
3 compliance with the tree protection ordinance would stop you from building that 800-square
4 feet. So, you are kind of in that same situation, you only get to harm trees if you know, that's
5 the only way you can get to eight-hundred square feet.

6
7 Chair Lauing: Which actually is consistent with the tree ordinance anyway. There are
8 circumstances under which you are allowed to take out that tree. So. Okay, let's see, who was
9 next? Commissioner Hechtman.

10
11 Commissioner Hechtman: With a typical at grade ADU, those have a foundation, right, they're
12 built on a foundation. Do we know what the typical depth of a foundation is?

13
14 Mr. Sauls: I don't have that information off the top of my head, no.

15
16 Commissioner Hechtman: Okay, I think that's useful information to us because whether, I
17 mean I just think about foundations you've seen at construction sites and it seems like they are
18 at least eighteen inches deep, maybe quite a bit deeper but with no basement we are going to
19 be effecting tree roots, however deep that foundation is allowed to be. Because you know, they
20 have to dig... they have to dig it out and they're going to affect tree roots just to have it. I'd be

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1 interested to know from our Arborist if whatever depth that is, if there is... once you've
2 destroyed the roots in that zone, is there... is it worse if you go down another x number of feet,
3 or have you already done the damage under the canopy where you are cutting the roots. I just
4 don't know the answer to that.

5

6 Vice-Chair Summa: Well, I can tell you that partially that it's different with different trees. Some
7 root systems are very close to the grade, and some are very deep so it's just different and I
8 think the tree protection... whatever tree protection ordinance we have will be used in the case
9 of building anything, foundations or basements, so I think it's kind of the same.

10

11 Chair Lauing: Do you have more comments Commissioner Reckdahl?

12

13 Commissioner Reckdahl: My questions were answered, what I wanted to know is how when
14 you're building a house, and you have constraints in the basement due to tree roots, how does
15 that differ from the ADU constraints, and it sounds like it doesn't. So, just like Commissioner
16 Hechtman was saying earlier, I get uncomfortable when it seems like you have two sets of rules
17 and so if we have one set of rules it makes me more comfortable.

18

19 Chair Lauing: Okay. So where does that leave us on one of these designs? Commissioner Chang
20 was going for the left hand design earlier so, Vice-Chair.

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Vice-Chair Summa: Yes, I have a question for staff and that's about the middle design, which is partially, I think the point of that is to make the first floor have higher ceilings, or have options of higher ceilings within the sixteen foot envelope by going partially underground. Would we be prohib... are we only choosing full basements and not allowing that?

Mr. Sauls: We could. It's a... it was part of the conversa... I think that was part of the issue that Commissioner Chang has raised, that staff was looking for direction from the PTC to either blank part of cart blanche say basements of any configuration could work or be allowed, or we would be more specific and focused and say it has to be... if you do build a basement it has to be below grade, it can not be partially sunken, or any sort of below grade improvement has to be fully below grade not partially sunken.

Vice-Chair Summa: I'm not sure we really discussed the partial option or ...

Chair Lauing: Go ahead.

Vice-Chair Summa: Well, I mean it's not... it does... this design in the middle would not have the safety concerns Commissioner Reckdahl was worried about and I'm just wondering why we would prohibit that.

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Chair Lauing: Commissioner Chang.

Commissioner Chang: So, my having not been there at the first discussion, my understanding is there is a concern now that ADUs can be built within four feet of the property line, closer to the property line, a privacy concern. Particularly for tall ADUs. And the idea is that if you have the second, the middle picture with the full floor... with a full second floor, that people could spend more time there, versus a loft configuration on the right most picture where basements are not allowed. So, if it's a loft, it's probably just sleeping space. Like you're not going to be walking around up there and spending a lot of time up there. And, doing like the first option on the left, kind of makes it so that the ADUs are going to be shorter and that is a ... so I prefer the left side because of privacy for the neighbors. That's my reasoning. Yeah.

Vice-Chair Summa: That makes sense. Thank you.

Chair Lauing: Yeah, I'm in on that one too. Other comments? Commissioner Reckdahl?

Commissioner Reckdahl: So currently the design on the right can be built. There's no constraints against that. Is that correct?

-
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1 Mr. Sauls: Are you talking about the design on the far right, the third image? Or the second
2 image?

3

4 Commissioner Reckdah!: Yeah, the far right.

5

6 Mr. Sauls: Yes.

7

8 Commissioner Reckdah!: There's no constraints on that. And the only constraint is height.
9 Could we make it so they can not have a floor that started above a certain level? Because I
10 mean in some ways if you look at the one on the far right, when someone is standing, they're
11 higher than they would be on the second, in the middle picture. So, if they look out a window,
12 their eyes are going to be higher on the far right. So, I can see that one on the far right actually
13 could be worse for privacy.

14

15 Assistant Director Tanner: So I think the one on the right, we have to allow. So ADU's are
16 allowed to be up to sixteen feet in height and so that's just trying to show they'd have to have a
17 seven foot ceiling height which one could do, it's not a typical ceiling height, but it is a minimum
18 required so I don't know if we have a choice around the most right option and I... maybe if you
19 could repeat your question we could find (interrupted)

20

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1 Commissioner Reckdahl: Do we, (crosstalk) okay, do we... we have to allow them to go sixteen
2 feet. Do we have to allow them to have a second story?

3

4 Assistant Director Tanner: I... I guess I don't know, Albert, if the State law explicitly states that
5 but I don't know that we can place additional constraints like no second story with in the
6 sixteen-foot height limit that would seem to be not certainly the direction the State law is trying
7 to go with the spirit of the State law. So.

8

9 Mr. Yang: Yeah, I think theoretically we could say, you know, you can't have a finished floor
10 above a certain height, but I think we probably... I don't know... I guess I don't know what sorts
11 of applications we're getting in. But I could see that being a rule, that we'd have to frequently
12 bend. You know, because it would... we'd run into sort of limitations that people can't reach the
13 minimum square feet within that rule.

14

15 Commissioner Reckdahl: Okay, and what about, we have a lot of neighborhoods that have
16 single-story overlays. Are second stories on ADUs prohibited in those overlays?

17

18 Assistant Director Tanner: No. They're not currently.

19

20 Commissioner Reckdahl: They're not prohibited.

-
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Assistant Director Tanner: Not prohibited.

Commissioner Reckdah!: Really? So I can't build a house with a second story but I can build an ADU with a second story that's even closer to my neighbors house, that seems broken.

Mr. Sauls: I mean that is part of the changes in the impacts that has occurred as a result of State Law in 2020. You know, we wouldn't normally have structures this close prior to 2017, they'd usually be built within the building's envelope, the setbacks basically, the space created from the setbacks, but then in 2017 ADU law was even expanded to provide for seven, you know, what the City had provided for at the time was seventeen-foot-tall structures at a six-foot setback. And when it was further constrained, or State, or local jurisdictions were further constrained to say they had to provide a unit at a four-foot setback and at sixteen-foot height, a number of the issues that staff was raising to PTC and City Council were, you know, they're much more strict or specific... they're much more specific language that says cities have to do this. And so, when they don't fall into that category of the city has to do a certain thing, and it falls into this Table Two category of you know, what can the city still try to regulate, you know, staff was trying to provide for additional options to provide for privacy protections. But the single story overlay is a local ordinance issue it's not a State issue, so to come extent the state law would trump that.

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Commissioner Reckdahl: That isn't clear that we can't prohibit second story ADUs is it? Council (crosstalk)

Mr. Sauls: Currently under sixteen feet in height you're able to basically build a loft. We don't necessarily think of a loft as a true second floor, or second floor maybe in a traditional sense. So, that's why there's been this allowance to have these as sixteen feet is kind of defined allowance that the State is provided for.

Mr. Yang: Yeah, so I think under Table Two we could say you know, you can't have a finished floor above a certain height. And that would effectively stop you from having that loft. That wouldn't keep anyone in a single-story overlay from building an ADU from under Table One. Where we just have to approve it. So, you know, we don't get to add those additional regulations, and then as I mentioned earlier, even if we did have a rule that said you can't have a finished floor above say you know, eight-feet, for example, or five-feet, you know, if that prevented someone from building an eight-hundred square foot ADU, we'd have to waive that rule.

Commissioner Reckdahl: Okay. Thank you.

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1 Chair Lauing: Commissioner Hechtman.

2

3 Commissioner Hechtman: So, I'm supportive of flexibility on this issue, when I look at these
4 three models the one on the left with the entirely submerged basement, I'll be surprised if we
5 get more than one of those in the next decade, for cost alone, but particularly if we couple that
6 with including the gross floor area from that entire floor, I just don't think we'll ever see it. So
7 then you're really looking at the other two options as more realistic. Later in our discussion
8 tonight, as part of this ordinance changes, we've got a bunch of changes related to privacy
9 issues. Where, you know, the window treatments on the... above twelve feet I think, or
10 whatever the above the first floor is, exits, you know we even on the ground floor, patios, and
11 what not and so I think it's better to address privacy issues more directly with those sorts of
12 things. I'll point out in that middle option, which like Chair Lauing, I had to use my magnifier to
13 see, that that is actually shown as two feet underground, right, and twenty-one foot of width. I
14 don't know what the depth is, but all of that square footage would count, that two feet below
15 grade counts as square footage which has the effect of shrinking what's left to build above
16 square foot... above grade. And that will have some beneficial effect on the massing of the
17 structure that the neighbor sees, four feet from the property line. And so that I think is a good
18 thing. So, and also, I really think we have to balance the needs of the occupants of the ADU, the
19 renter, with the needs of the neighbor, and I don't particularly love the idea that we're going to
20 build ADUs with loft at... you know, if two unrelated people are living in this and one's on the

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1 ground floor in the basement, the other is in a loft, that they can't close off, and so, that person
2 has less privacy in their own home. So, that kind of concerns me. So I'd be supportive of all
3 three, you know, regulation that allowed any of these three, subject to all the other regulations
4 we have to protect privacy and interests of the neighbors.

5

6 Chair Lauing: So colleagues, have we backed into that as a default, what Commissioner
7 Hechtman just said? Okay I'm getting I don't think so, so does that mean we're into a parking
8 lot situation? Or do we want to press on here? Commissioner Chang.

9

10 Commissioner Chang: So, I don't know how much, do we have agreement on everything else
11 except the basements then, is that where we are?

12

13 Assistant Director Tanner: My notes taken, I'm assuming that for most of the four bullet points,
14 that there seems to be general agreement, there seems to be agreement to require basements
15 to be habitable, or built to standards of habitability, so that there isn't any unsafe dwelling after
16 the fact, and that the open question is whether basements must be fully below grade or if they
17 can be partially below grade as well. That seems there's not agreement on that point.

18

19 Chair Lauing: I think that's accurate except the last points seem to be easily overruled if needed
20 by the applicant, as I understood the Council.

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2 Commissioner Chang: I'm not sure I understood that. So, do we know, okay, so I've heard that

3 Commissioner Hechtman supports allowing basements without any additional restrictions.

4 Correct? And then I know that I think the basement should be fully below ground. I don't know

5 where everybody else stands.

6

7 Chair Lauing: I thought the legal opinion was that there are many many ways to get around

8 that one on the left.

9

10 Commissioner Chang: I don't think that's what I heard.

11

12 Mr. Yang: No, sorry, my comment was that there would be ways around our saying you can't

13 have a finished floor above six feet, or something like that.

14

15 Chair Lauing: Oh.

16

17 Assistant Director Tanner: Commissioner Reckdahl is raising a third potential topic that's not

18 really related to basements, it's related to whether or not we can prevent... I understood it as

19 second stories overall. And by having a finished... no finished floors above say eight feet above

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1 grade, or ten feet, whatever we decided was the height that would be allowed. It's like a
2 separate topic, I would say from the basements specifically.

3

4 Chair Lauing: Just, I want to get Mr. Yang up there one more time. So, give you a scenario, if we
5 said we want only the one on the left, I was understanding that we couldn't do that because it
6 was too restrictive.

7

8 Mr. Yang: No, I think we could do that.

9

10 Chair Lauing: Okay. Okay, so I must have been confusing it with the idea that Commissioner
11 Reckdahl proposed for a limitation. Okay, Commissioner Roohparvar.

12

13 Commissioner Roohparvar: Yeah, I just want to comment I agree with everything Ms. Tanner
14 from your summary, and I agree Commissioner Hechtman on this one, I don't, it can be
15 wherever, I'm open to all three. So that's my position on this. Thanks.

16

17 Chair Lauing: Vice-Chair Summa.

18

19 Vice-Chair Summa: Thank you. I think after listening to my colleagues I think I would, I, I land
20 where Commissioner Chang is. So, and I don't have a particular concern about limiting on the

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1 right most, I mean, I don't have a concern about trying to remove the loft by having a second
2 restriction on that height. I think we... sixteen feet I think you know, seven feet on the interiors,
3 that's as low as it can be. I wouldn't want to restrict what they do above that. If that makes
4 sense.

5

6 Chair Lauing: Okay I think we're on a parking lot with this one because, you know, we don't
7 have a quick unanimity.

8

9 Assistant Director Tanner: Would it be the Commission's preference to take a formal motion on
10 the other items or to just try to come back either at the end of tonight or at the next meeting
11 on the things you do have agreement on.

12

13 Chair Lauing: With your mask I didn't quite understand you.

14

15 Assistant Director Tanner: Sorry. Does the Commission want to, so we have items where there
16 is agreement, do you all want to have a formal motion on that section and then park this
17 question of the fully below grade or do you just have staff kind of keep track and do motions at
18 either the end tonight or at the next hearing.

19

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1 Chair Lauing: I'm totally open to that idea, and coming back to this idea of privacy potentially
2 after we talk about some of the other privacy things which Commissioner Hechtman suggested.
3 We could be more informed on that, I'm totally fine with that. I'm getting nods here. Okay.
4 Okay. Good.

5
6 Assistant Director Tanner: Do you want a formal motion then on the other things (crosstalk)

7
8 Chair Lauing: Do you want a formal motion on that?

9
10 Assistant Director Tanner: I just think it would be helpful to document this so that it doesn't, so
11 we don't lose it.

12
13 Chair Lauing: Not arguing, just want to make sure.

14
15 MOTION

16
17 Commissioner Chang: So, I'm going to move that we accept the staff recommendation for the
18 four bullets on packet page 16, with the addition that basement in Table Two can only be
19 habitable basements.

20

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1 Chair Lauing: Yeah, I'll second it.

2

3 Chair Lauing: We just lost one of our Commissioners temporarily so...Is there any more
4 discussion on this, Commissioner Hechtman?

5

6 Commissioner Hechtman: Do we get to the same point when I look at the fourth bullet, it says
7 all habitable basements, do we get to that point if we just remove the word habitable? So, it's
8 all basements count toward the unit's gross floor area. Does that get us to where we're trying
9 to get? Or no?

10

11 Commissioner Chang: I don't think it does because I think we were concerned that even if they
12 didn't count toward... so if they counted toward floor area presumably they would want to
13 make them habitable but there's still I suppose the possibility that they're not.

14

15 Commissioner Hechtman: But why... (crosstalk)

16

17 Commissioner Chang: I think I would prefer to hear from Counselor Yang on that one.

18

19 Mr. Sauls: I think one of the examples that were discussed before was we would count a crawl
20 space right, that's four feet below grade as floor area, the same as we would count a room

-
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1 made to seven feet, or eight feet, or ten feet below grade the same. I think that was what
2 Commissioner Hechtman was talking about if I remember correctly.

3

4 FRIENDLY AMENDMENT

5

6 Commissioner Hechtman: Yeah, so I think it solves our issue because they're only going to build
7 a basement for any use if they're willing to pay the extra cost. It's even less likely they'll build it
8 just for storage. If it cost you all that money and it counts... it gives you a smaller overall unit.
9 So, I think we... that's why I'm thinking if we just eliminate the word habitable, so it's all
10 basements which includes any kind of basement, whatever they want to do, it's going to count
11 so you decide if you want to spend the money.

12

13 Commissioner Chang: Alright, I'm sold on that. So should I change...

14

15 Chair Lauing: You could just accept that friendly amendment and I'll stay with...

16

17 Commissioner Chang: I'll accept that friendly amendment.

18

19 Chair Lauing: And I'll stay with my second as well.

20

-
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1 Commissioner Chang: Alright.

2

3 Chair Lauing: Okay we still have a quorum so let's go ahead and take a vote on that.

4

5 VOTE

6

7 Mr. Nguyen: Commissioner Chang

8

9 Commissioner Chang: Yes

10

11 Mr. Nguyen: Commissioner Hechtman

12

13 Commissioner Hechtman: Yes

14

15 Mr. Nguyen: Chair Lauing

16

17 Chair Lauing: Yes

18

19 Mr. Nguyen: Commissioner Reckdahl

20

-
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1 Chair Lauing: He's in recess

2

3 Mr. Nguyen: Commissioner Roohparvar

4

5 Commissioner Roohparvar: Yes

6

7 Mr. Nguyen: Vice-Chair Summa

8

9 Vice-Chair Summa: Yes

10

11 Mr. Nguyen: Alright, the motions carries 5-0 with one Commissioner Absent and one
12 Commissioner on recess.

13

14 MOTION #1 PASSED 5 (Lauing, Hechtman, Summa, Chang, Roohparvar) – 0 – 2 (Reckdahl on
15 recess, Templeton Absent).

16

17

18 Chair Lauing: Okay. Moving on to number 8. You want to do one more and then take a break?
19 This is noise producing equipment. The core being that maintaining a side setback and
20 underlying front setback. Commissioner Chang.

21

-
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1 Commissioner Chang: I just have a question first for Mr. Sauls about this. So, can you explain
2 how, how the... sorry, how does this requirement differ from what a... from what the primary
3 residence is required to do. So, how is this more relaxed than what the primary residence is
4 allowed to do.

5

6 Mr. Sauls: So, typically for a standard lot, you have a twenty-foot front yard setback and a
7 twenty-foot rear yard setback, and either a six or an eight-foot side yard setback. There can be
8 no noise producing equipment located within any of those areas. For an ADU, and then with a
9 corner lot, where you have a sixteen-foot street side setback, there is a provision to allow that
10 noise producing equipment to be within six-feet... if you think of it like at the setback point,
11 where maybe the building and the setback meet, six-feet further in to that dimension, that
12 sixteen-foot setback you can have noise producing equipment provided it's at least ten-feet
13 from the property line on the street side yard. For ADUs, what we adopted was to say that
14 noise producing equipment can also have a four-foot setback. As similar to an ADU, either on
15 the side, the interior side of the rear yard or street side yard. This change would say that
16 provided its compliant with the noise ordinance it no longer has a setback... noise producing
17 equipment specifically would no longer have a setback requirement, so it could be closer than
18 four feet to a property line.

19

-
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1 Commissioner Chang: And what does the current noise ordinance say? My understanding is
2 that it's not a decibel level but rather something relative to ambient noise. So, as you add more
3 noise, it's like a moving target. Is that correct?

4
5 Mr. Sauls: So the ambient noise levels that we have range from sixty to sixty-five... sixty to sixty-
6 five and seventy. In most residential districts, with the exception of places on Alma Street and
7 Embarcadero, maybe closer to place like Middlefield, where you have a lot more vehicle traffic,
8 the ambient noise levels are sixty decibels. The noise ordinance allows for a six decibel increase
9 over that ambient level so the maximum would be sixty-six at a property line. Most noise
10 producing equipment that we've been seeing for ADUs are between fifty and sixty decibels. So,
11 inherently they would be in compliant with the noise ordinance provided that they fall within
12 that range. If they... if someone were to propose a unit that's sixty-seven or great, than we
13 would say they would have to go with a different unit.

14
15 Commissioner Chang: Thanks, that's helpful. So when you say that most of what you've been
16 seeing is sixty decibel, that's at the point of the actual piece of equipment, right? So if it's four-
17 feet away it's presumably a tiny bit less than that.

18
19 Mr. Sauls: Correct.

20

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1 Commissioner Chang: Okay. Got it, thank you.

2

3 Chair Lauing: Other Commissioners. Commissioner Roohparvar.

4

5 Commissioner Roohparvar: Thank you. Maybe I'm just misreading this Mr. Sauls, so the noise
6 producing equipment can go up to anywhere, can you explain this ten-foot reference in the
7 packet, where it has to maintain a ten-foot side area setback?

8

9 Mr. Sauls: It should say street side setback, if it doesn't say street side setback then that
10 (crosstalk)

11

12 Commissioner Roohparvar: Yeah, it says street side. Oh so from the front.

13

14 Mr. Sauls: So, if for, if you think of a corner lot, that's really the only place your going to have a
15 street side yard, you have two property lines that face a street. For a corner lot the shorter of
16 the two street facing sides, is considered the front, regardless how the building is oriented.

17

18 Commissioner Roohparvar: Right.

19

-
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1 Mr. Sauls: And so we currently have in our ordinance a provision that says you can have a ten-
2 foot setback for noise producing equipment for primary home, and so this would basically be
3 mirroring that, if PTC felt for ADUs specifically, that there wasn't a need to do that, have that
4 mirroring, then we could simply say all the ADU standards, or put it... four-feet or put it to zero.

5
6 Commissioner Roohparvar: Got it. Okay, well then this makes sense. I have another question
7 for you then. What if this conflicts... what if the setback, this ten-foot setback then doesn't
8 allow an ADU to be built. Would State law trump us?

9
10 Mr. Sauls: I'd have to see an example where that's a reality. You'd really need to have basically
11 a...

12
13 Commissioner Roohparvar: Really narrow lot.

14
15 Mr. Sauls: Yeah. (crosstalk) Not only a really narrow lot but a really narrow ADU as well.

16
17 Commissioner Roohparvar: Yeah.

18
19 Mr. Sauls: And that's not really realistic if you think of just a four-foot setback to ten-feet. You
20 know, building code requires for a room in general has to have at least seventy square feet, so

-
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1 already you're going to have something that's kind of spanning that distance, but you know, I
2 think we'd really have to see that built out in reality. You don't always need to squeeze that
3 unit next to it, you can have a unit further away and still provide that service, or that function to
4 the unit itself as well.

5

6 Commissioner Roohparvar: Got it. That's helpful. Well, I mean, I'm supportive of this, I just
7 want to get through this, the staff proposal makes sense to me unless my fellow Commissioners
8 have any other points they want to raise.

9

10 Chair Lauing: I just want to raise a comment that... relative to staff report in that second
11 paragraph there. Yes, this should only relate to the first part, and I don't think we want to get
12 into the second part. Which is, I think outside of the bounds of this ADU discussion. Reducing
13 current setback requirements in primary units.

14

15 Mr. Sauls: Okay. Understood.

16

17 Chair Lauing: We're just not addressing that part. Did you have a question for staff about...

18

19 Vice-Chair Summa: So, I'm a little confused. I know we're not considering tonight reducing the
20 noise producing requirements and restrictions for primary houses, what... so are we allowing

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1 for ADUs or JADUs they can be up to the fence, right? They can be anywhere within the four-
2 foot setback?

3

4 Mr. Sauls: Correct. That's in the draft ordinance.

5

6 Vice-Chair Summa: But I just don't... maybe staff can help me understand why that's important.

7

8 Mr. Sauls: It can add some additional site development flexibility right, they certainly need to
9 maintain a four-foot setback but depending on whether or not your lot is very confined or
10 restricted, being able to place an AC unit or a heat pump within the four-foot setback may not
11 require to be in other areas where there's not maybe enough space. So, it may be more
12 beneficial to smaller lots than it would be to larger lots but I think in general from what we've
13 been seeing on a lot of applications, the other issues is just that many of the other ... much of
14 this noise producing equipment by it's nature would comply with the noise ordinance. And for
15 these specific units, to encourage some minor albeit flexibility for development potential, this
16 could be one provision that we could pursue.

17

18 Assistant Director Tanner: I think the last word that Mr. Sauls said is key is flexibility which
19 allows more options of where equipment can be located, how an ADU could be configured in
20 relation to the main home or a JADU etc. It provides more flexibility to the unit.

-
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2 Vice-Chair Summa: So, my concern with this is that noise has typically been very difficult to get
3 any follow up, the City doesn't have noise recording equipment or noise experts and they often
4 get ignored, and I think what you're doing here... I want to make sure what we don't do is allow
5 the primary resident... residents to be protected and to put that noise closer to other residents.
6 Other properties. And, you know, I mean, equipment isn't always maintained properly so, I feel
7 like that's what we're doing. We're shifting that noise burden away from the primary resident
8 who in many cases chose to build the ADU. I ... I don't... I just don't think it's a... I can't imagine
9 it's a make-or-break situation for building an ADU, and I'm hesitant to shift that noise closer to
10 the neighbors.

11

12 Chair Lauing: Commissioner Chang

13

14 Commissioner Chang: I'm hesitant also because, I mean I think that the four-foot setback is
15 there for massing but it's also there just so there's some space between you and the next piece
16 of equipment, or next piece of anything, so I'm just concerned about having something in that
17 space. I mean I haven't really... it just doesn't... in addition to what Commissioner [Vice-Chair
18 Summa] Summa said about... I mean who wouldn't decide to put that equipment as far away
19 from yourself and as close to your neighbor as possible if you could do that. So, I feel like it
20 conflicts costs on the neighbor. That's my concern.

-
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1

2 Chair Lauing: Mr. Sauls if we didn't do this and somebody had one of those odd lots that you
3 just talked about where, you know, they had to put it into that area to get the stuff up, what
4 would be the process there? Would they have to ask for a variance?

5

6 Assistant Director Tanner: It would be an odd request for a variance I would think.

7

8 Chair Lauing: I didn't hear that.

9

10 Assistant Director Tanner: I think it would be an odd item to request a variance for, I suppose
11 somebody could but I

12

13 Chair Lauing: And I know it's always better to have just code that you can follow without going
14 through all the variance process. Clearly, I'm just trying to explore alternatives.

15

16 Assistant Director Tanner: An alternative would be to you know, if a piece of equipment has a
17 manufactures indication that it's below 55dba for example, so the noise produced by the
18 equipment for four away is basically going to be at or below even the ambient level of the
19 neighborhood, because fifty-five would be below even any of the other levels, so that way...
20 essentially, it's not noise producing equipment. Right? It's equipment, but it's not noise

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1 producing by the way that it's manufactured. That's the way you could provide flexibility but
2 not necessarily the annoyance your neighbor because it's not loud equipment. Or it's not
3 producing noise that one would hear on the other property. That would be the way to kind of
4 maybe add some nuance to it. But still allow some flexibility. And then it would encourage
5 people to select equipment that's quieter by design.

6

7 Chair Lauing: That's kind of on the track of what I was thinking about. Commissioner Chang
8 your light. Okay. Commissioner Hechtman.

9

10 Commissioner Hechtman: So, this is one of those instances where it makes it more difficult to
11 us to look at the concept without looking at the language in context. So that language is in
12 Packet page 33, it's the last paragraph it's subpart I, which is referred to in the staff report. And
13 the change shows that other than this ten-foot street side setback and the front yard setback,
14 with this change you could put the unit anywhere on the site. But what we haven't talked about
15 in our discussion because we weren't look at the ordinance, is that when they do that, it has to
16 be insulated and housed. So it's not just sticking the... my air conditioner on my neighbors side
17 of my ADU because it's farther from me, and whatever noise it makes, they're going to hear it.
18 It has to be insulated and housed unless I demonstrate, and I don't know how often this
19 happens, that there's no way it can violate the noise ordinance. Now one thing I don't like to
20 do... I don't like to legislate to an assumption of lawlessness. So, I don't want to assume

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1 everyone is going to break the law and write the law accordingly. You know, if we've got
2 problems in the city with code enforcement, then we need to talk more directly about that,
3 rather than to legislate so people can't possibly violate a code because they're too stringent. So,
4 I like this addition here, because I think it provides more flexibility and again, we're not thinking
5 through all of the flexibility, it may be that that neighbor would rather have the housed
6 insulated air conditioning unit at that location, and extra footage, or the building is moved
7 forward on the lot three feet, which is closer to their main house. We just don't know. So, we
8 want to provide I think, as much flexibility as we can to allow the best configuration.

9
10 Chair Lauing: Okay, I think that's helpful input and obviously we're going to get the ordinance
11 language as well, but I agree, that gives more comfort level to repeat my statement, would it
12 require more variance, I know that it is not ideal to be starting to open up variances all the
13 time. So. Others? We're on two Keith [Commissioner Reckdahl]. Go ahead Vice-Chair Summa.

14
15 Vice-Chair Summa: Well, I was going to say, just like everything else, if there was no place for
16 them to put it except where we would consider it a violation the State law would trump, and
17 they could put it there anyway. I think. If that's correct.

18
19 Assistant Director Tanner: I don't know... I mean I don't know, maybe. But I think that it's not
20 the structure itself, right? It's equipment that is attached to and serving the structure, I don't

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1 think State law really provides indication that things can encroach into the four-foot setback,
2 except for existing non-conforming structures and that whole kind of thing, but I don't see how
3 State law would dictate that they are allowed to put anything in the setback. They kept it on the
4 other side of the building or reconfigure the building to accommodate the equipment.

5

6 Chair Lauing: Commissioner Reckdahl

7

8 Commissioner Reckdahl: So again, if we look at what a regular house could do, a regular house
9 could put its air conditioning in the setback? Is that allowed right now?

10

11 Mr. Sauls: No.

12

13 Commissioner Reckdahl: Okay, and what is the thought process. Why don't we allow that?

14

15 Mr. Sauls: The City has had this noise ordinance for I think a decade and a half or so. That just
16 said that you know, noise producing equipment can't be within the setback for the primary
17 building. When it came to ADUs, the City adopted less stringent requirements to be more... to
18 provide more flexibility for development potential. In the previous discussion we had, the PTC
19 had aligned that they were open to further reducing the setback requirements for noise
20 producing equipment provided they complied with the noise ordinance.

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Commissioner Reckdahl: So, why didn't the original policy just reference the noise ordinance?
Did we not trust in the noise ordinance or what?

Mr. Sauls: It did. The original policy did reference the noise ordinance but one of the issues that was raised by staff and the Task Force was you know, if you have a unit that's at a four-foot setback and you can't place your AC unit or your heat pump or other sort of noise producing equipment, you know, it has to be twenty-feet away from the property line. That certainly presents or could present some complications as it relates to site development. Or site planning. So, part of the encourage... part of the ways to encourage development in those areas was to say that for these units that produce little noise, or very little noise are inherently somewhat consistent with the noise, the ambient noise levels for most residential developments. We were open to providing flexibility for where they could be located, where as before, we would not.

Commissioner Reckdahl: Okay. And... but still if the purpose of not allowing for a regular house now, if the purpose is noise... is not allowing noise equipment in the setback, but yet if it's not violating the noise ordinance, that seems kind of overly harsh. Was there... was it just that there wasn't a demand for that? Why didn't we ...

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1 Mr. Sauls: Many of the units used for primary homes are multi-ton units which are much
2 louder. So those tend to range from seventy-to-eighty and a half, eighty-five or so decibel
3 ratings where a greater distance is needed in order to conform with that noise ordinance.

4

5 Commissioner Reckdahl: Okay, so it just comes down to, we didn't think it was practical that
6 these things would satisfy the noise ordinance. Okay. Okay, thank you. Let me give my two
7 cents. I think if it's not violating the noise ordinance, then it seems acceptable to put it in. I'm
8 just nervous that it may not violate the noise ordinance now, but as it gets older it will get
9 worse and noisy and now all of a sudden you have ... trying to get someone out here to try to
10 verify that this thing is making too much noise, I think would be very very difficult. So, I could
11 see why the neighbors would not want it, but from the builder's standpoint, if you can tuck this
12 away where it's not out of the way, you're making better use of your lot. And so, I could see
13 that it could be a good thing for the builder of the ADU, to be able to put it here. My concern is
14 that, are we sure that this noise ordinance is going to protect the neighbors.

15

16 Chair Lauing: I don't see anymore lights. Commissioner Roohparvar has left the screen. So, I
17 don't see any light for her. There she is. Okay. Good. So, if you all like, we can vote on this one,
18 noting as Commissioner Hechtman said, we still have to get the language in the ordinance to
19 address it. Not tonight necessarily. So, would someone like to make a proposal on item number
20 two. Commissioner Hechtman.

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Commissioner Hechtman: Is my light on?

Chair Lauing: It is.

MOTION

Commissioner Hechtman: Okay. Then I will move the... conceptually the staff recommended direction which is described in the first two paragraphs of Item two little i (ii) but not the third paragraph which we are not taking up. In other words, noise issues related to the primary unit, we're not taking that up. So I'm only referring to the first two paragraphs of Item 2.

Chair Lauing: Okay. Is there a second?

SECOND

Commissioner Roohparvar: I'll second.

-
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1 Chair Lauing: Okay. And any further questions? My only question, my reservation is if we want
2 to vote on this, without, in this case, going to look at the ordinance which we could doing either
3 on a parking lot or do right now, but... any thoughts on that? Okay.

4
5 Commissioner Hechtman: My only comment on it is in phrasing the motion I used the term
6 conceptual to try to not lock us in when we get to the discussion on the ordinance language.

7
8 Chair Lauing: Yup. Just wanted to get everything on the table. So, if there aren't any other
9 questions, then let's call for a vote on this. Oh, there's a question. Commissioner Chang

10
11 FRIENDLY AMENDMENT

12
13 Commissioner Chang: You know, I would feel a lot more comfortable with it, if we specified
14 that this was equipment that was, kind of in line with what Assistant Director Tanner suggested
15 which it is not noise producing equipment, so below the six... fifty-five decibel to say, to pick a
16 number, that would make me feel more comfortable because... I... yeah. Thanks.

17
18 Chair Lauing: That could work as an amendment. It's still conceptual Mr. [Commissioner]
19 Hechtman.

20

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1 Commissioner Hechtman: I guess my concern is, I have no idea what a typical air conditioner,
2 water heater, or similar service equipment, what noise it produces at the property line, when
3 it's insulated and housed. And so, I don't know what I'm excluding by including that. And this is,
4 I think, kind of the issue that Mr. Popp was raising in his public comment, is his concern that we
5 not adopt some kind of special rule for this equipment that's different from the rule that
6 applies to every other property, every other use in the residential districts of Palo Alto. So, I'm
7 nervous that the... that limit... I just don't know what that limitation would do.

8
9 Chair Lauing: Are the other ones subject to the noise ordinance anyway? So that wouldn't be
10 inconsistent?

11
12 Mr. Sauls: That's correct. They all are subject to the noise producing equipment ordinance, or
13 the noise ordinance in general, it's just that we previously said ADUs can have reduced setbacks
14 than the primary units because they're usually smaller and these units are also usually smaller
15 as well, because they're servicing a much smaller space, and less noisy.

16
17 Chair Lauing: Which should make them easier to be under the ordinance... under the decibel
18 rates.

19

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1 Mr. Sauls: Right, as I noted before, what we've been seeing more often is that with many split
2 systems typically used on ADUs, they range between fifty and sixty decibels. The ambient
3 decibel rating that we have in the city is sixty. And we allow for up to six decibel increase in
4 order to conform to our noise ordinance for residential properties, so, realistically at the
5 property line sixty-six is the limit.

6
7 Commissioner Hechtman: And I guess my point is that if at my property line, my neighbor has
8 noise producing equipment that results in a dB level at the property line, of sixty-five, it doesn't
9 matter whether that noise is coming from his main house air conditioning unit twenty feet
10 away or from his smaller ADU air conditioning unit, which is you know, two feet away but
11 housed and insulated, because my experience in the same. It's sixty-five decibels, that's why I
12 don't think we should propose a special rule just for this equipment.

13
14 Chair Lauing: I guess I'm not sure how special it is if it has to meet the decibel ratings.

15
16 Commissioner Hechtman: It's special if it doesn't apply to the rest of the equipment on that
17 property. Right? I've got... now my City Inspector, who will never go out there according to
18 some members of this commission, or hard to get them out there, they do have to go out there
19 and they have figure out if the... again, you're talking about a situation where there could be
20 noise at the property line less than the sixty-six but it's more than the fifty-five for it's location,

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1 so it's a violation even though its under the noise ordinance. So, it's a different treatment for
2 this equipment. A lower standard is a violation. A lower decibel is a violation at the property
3 line. Unless I'm misunderstanding the (crosstalk)

4

5 Chair Lauing: Yeah, that's not exactly how I understood it but let's see. Vice-Chair Summa

6

7 Vice-Chair Summa: Thank you. I do think we're doing something special to use your...
8 Commissioner Hechtman's example because we're letting them put equipment closer up to the
9 property line. And one of my concerns about that is that if there's a reason to have it farther
10 away from the property lines from the primary house, than I don't see any difference and the
11 other thing is, you could have one of these on three sides of your property, you know. So, there
12 could be three places that it was on the property line and I don't know how to evaluate that
13 potentially because we don't have sound, we don't have a mock up of a sound... of what a
14 decibel level could be in a small property, if there were all three sides had ADU equipment on
15 the property line. That's... and I don't think that's totally unlikely, so, that's another one of my
16 concerns.

17

18 Chair Lauing: Well, let's see... Commissioner Chang.

19

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1 Commissioner Chang: Yeah, so I think that... so, my suggestion was that the rule would be that
2 the equipment would not be allowed to be placed within that four-foot setback if it wasn't
3 rated below, let's just say fifty-five decibels. That has nothing to do with what the actual... I
4 mean I think the reason I feel better about that conservativeness is because, yes, things may
5 change over time, like Commissioner Reckdahl had mentioned or whatever. But that doesn't
6 mean that that piece of equipment could then eventually... that piece of equipment would
7 never violate the noise ordinance itself unless it reached above sixty-five. So, what I'm talking...
8 I think it's two different issues. They're getting an exception to place the equipment within this
9 four-foot area and we're just saying, you can do that if it's extra quiet. Right? So, that's... so it is
10 a different rule, but it's not a rule... but overall, in the end, you're not violating the... sorry, I'm
11 not being clear about this. This is about the initial placement of the equipment. Rather than
12 whether you're violating it ultimately at the property line, by violating the noise ordinance of
13 the property line. That's how I'm thinking about it.

14

15 Commissioner Hechtman: Okay, so I'll try to understand. So, first of all, one thing I don't think
16 anyone here knows is whether for example there's even such a thing as an air conditioning unit
17 that would, of a size that would serve an ADU, that has a noise production rating of fifty-five.
18 We just don't know that, right. It's possible that there isn't one. And so, if that's true, then we
19 are eliminating the possibility of having an air conditioner within that four-feet, even though
20 that air conditioner within that four-feet would still meet our noise ordinance. And so that

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1 troubles me a little bit. You know, there's a little piece of information I could share just... and
2 maybe Mr. Yang has run into this, but in my work, I do a lot of work with EIR's and noise is often
3 an issue and it's commonly stated that noise dissipates at three decibels every fifty feet. So, if
4 I'm right here creating sixty decibels of noise, you have to get fifty feet away from me to get
5 down to fifty-seven. And again, I've heard that from many many sources, so I want us to just
6 put into context that we're talking about a distance of maybe three feet here, where the
7 difference between putting something four feet from the property line versus one foot from
8 the property line, and incidentally three decibels is the minimum amount that is perceptible to
9 the human ear. So, we're talking about an imperceptible change by keeping it four feet rather
10 than allowing it to be you know, closer than four feet, no matter what we say for the decibel
11 level of the equipment. But, when the fifty-five dB that you're referring to, are you referring to
12 that's the noise it makes like just outside the machine, or is that the noise it's allowed to make
13 at the property line, which is a foot or two feet away, and possibly through housing and
14 insulation.

15

16 Commissioner Chang: Just at the machine.

17

18 Commissioner Hechtman: Okay.

19

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1 Commissioner Chang: Because Mr. Sauls has indicated that he's seen this equipment so I'm
2 saying that if it's extra quiet equipment, okay we let it, and if it's not than no. That's kind of
3 where I'm at, because I hear your point about it's an imperceptible difference, four feet versus,
4 within the four feet. I understand that. But what I think is going on is that... I build my ADU all
5 the way up to the four feet, and now I can choose wherever I'm putting the air conditioning
6 unit within that space or on my side. And gee, if that's my choice, of course I'm going to put it
7 on my neighbor's side, right? It makes it... hidden, it's going to be all of those things. But then
8 I'm kind of shifting that burden to my neighbor.

9

10 Commissioner Hechtman: Okay.

11

12 Commissioner Chang: I mean, why do we have the setback at all in a sense is where I'm
13 headed.

14

15 Commissioner Hechtman: So I think we're having this discussion in terms of whether this is a
16 friendly amendment I would accept, so let me just say I would decline that from the
17 amendment and so that can help people decide on which way they vote on the motion.

18

19 Chair Lauing: Okay, and let's clarify the motion that you made about twenty minutes ago.

20

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1 Commissioner Hechtman: Sure, the motion is to conceptually adopt staff's direction describing
2 the first two paragraphs in item 2(ii) on packet page 17, regarding noise producing equipment
3 within the setbacks.

4

5 Chair Lauing: Okay, Please take the roll.

6

7 VOTE

8

9 Mr. Nguyen: Commissioner Chang

10

11 Commissioner Chang: No.

12

13 Mr. Nguyen: Commissioner Hechtman

14

15 Commissioner Hechtman: Yes

16

17 Mr. Nguyen: Chair Lauing

18

19 Chair Lauing: No

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1 Mr. Nguyen: Commissioner Reckdahl

2

3 Commissioner Reckdahl: And this is to, we're giving staff direction in order to write, to come
4 back next week with this.

5

6 Commissioner Hechtman: There's a version of it already written on Packet page 33 which we're
7 not getting to that precise language yet, we will later in our dialogue at some point tonight, or
8 at our next meeting.

9

10 Vice-Chair Summa: This is not our final recommendation.

11

12 Chair Lauing: I think if it's a yes, we still have to look at the ordinance but then it would be
13 closer to our final recommendation.

14

15 Commissioner Reckdahl: Okay. I'll say yes for now, I have reservations but I'll say yes.

16

17 Mr. Nguyen: Commissioner Roohparvar

18

19 Commissioner Roohparvar: Yes

20

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1 Mr. Nguyen: Vice-Chair Summa

2

3 Vice-Chair Summa: I'll say no for now.

4

5 Mr. Nguyen: Okay, so the results is 3-3, Mr. Yang, could you remind me if that passes.

6

7 Chair Lauing: No.

8

9 Mr. Yang: No.

10

11 Mr. Nguyen: Okay Thank you.

12

13 Chair Lauing: That's just a tie. Which pretty much sums up where we were on that and we're in

14 the parking lot with it anyway.

15

16 MOTION #2 Tied 3 (Reckdahl, Hechtman, Roohparvar) – 3 (Lauing, Summa, Chang) – 1
17 (Templeton Absent).

18

19

20 Chair Lauing: Okay, we promised we'd break after that second one, so let's do a ten minute,
21 until 8:35. And then we'll do parking and some more privacy. So, we're in recess, thanks.

22

23 **COMISSION RECESS 8:25 p.m. to 8:35 p.m.**

24

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1 Chair Lauing: Okay, we are back, thank you very much.

2

3 Assistant Director Tanner: Chair Lauing, if I may, before we begin, I just want to know, I did
4 reach out to Commissioner Templeton just to make sure she was alright, she reminded us that
5 in our last meeting she said she was going to be absent today, but we did not put that into the
6 table, so apologies for that, and she's just fine. So she did tell us that, we just forgot.

7

8 Chair Lauing: Okay. Good, thanks for doing that.

9

10 Commissioner Roohparvar: I think she's going to be gone, sorry, at the subsequent meeting too
11 Ms. Tanner.

12

13 Assistant Director Tanner: She did note that, yes. Thank you.

14

15 Commissioner Roohparvar: Yeah, it's both of them, I think that's what she said in the last
16 meeting.

17

18 Chair Lauing: Okay, we're on Item three on page 17, parking provided for attached ADU. Open
19 the floor to Commissioner Chang.

20

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1 Commissioner Chang: So, yes, I have a question for Mr. Sauls. Does the attached garage in this...
2 as currently proposed, count toward the ADU floor area?

3

4 Mr. Sauls: No. Under the current ordinance, it would count towards the maximum size and
5 floor area, but PTC... the previous PTC discussion ended it with the majority of the
6 Commissioners wanting to not include that towards the unit's floor area and maximum size.

7

8 Commissioner Chang: Okay, then I understand the conundrum. Because to me the issue here
9 is... I think it's silly. If you're going to build... if you're going to allow people to build a garage, let
10 them make it functional by doing a door to the unit, but I understand the concern here, where
11 if it doesn't count towards floor area then you're just going to be incentivizing people to
12 convert it later on. So, I would prefer it to be like a carport or an uncovered parking. Because
13 then there's not that risk. But if it were to count towards ADU floor area, I'd be all for putting a
14 door between the two spaces.

15

16 Chair Lauing: I'm not sure I understood that.

17

18 Mr. Sauls: I think part of it... part of what Commissioner Chang was noting was that a sub-item
19 within this concept of this topic discussion is whether or not there can be any doorway
20 between the two units, which previously PTC and City Council have decided that they didn't

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1 want any sort of doorway between the ADU attached to a primary home. The concerns that
2 staff was raising previously was that by having these two structures together, not only it is
3 creating a larger structure but there's opportunities for that space to be converted without
4 permits to expand that ADU. I... being more specific to say there can not be a door between in,
5 in the instance where we go out and do an inspection and see that there is on, we could more
6 directly point to the ordinance to say that you're not allowed to have that. Right? Our code says
7 specifically that you're actually not supposed to have connections between these two
8 [unintelligible] structures.

9

10 Chair Lauing: Yeah, I got that part, I didn't quite understand the FAR part of it.

11

12 Commissioner Chang: So, the FAR part of it is... if a garage is counting as floor area, then I'm a
13 little bit less concerned that it would be illegally converted to a room.

14

15 Chair Lauing: Okay, got it.

16

17 Commissioner Chang: Yeah, okay.

18

19 Chair Lauing: Okay. Other commissioners? I think that's Commissioner Reckdahl.

20

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1 Commissioner Reckdahl: Yeah.

2

3 Chair Lauing: Yeah, you changed my signals.

4

5 Commissioner Reckdahl: Yeah, this comes down to the same thing as having two sets of rules.

6 We count garages in houses... don't we count houses... I mean garages count towards floor area
7 of a house, correct?

8

9 Assistant Director Tanner: I believe if lot coverage of the house.

10

11 Mr. Sauls: It counts as the floor area and the lot coverage of the house.

12

13 Commissioner Reckdahl: Ok.

14

15 Chair Lauing: Say that again.

16

17 Mr. Sauls: A garage counts towards, for the primary home, any garage associated with it,
18 whether it's attached or detached counts towards the floor area for the site, which effectively
19 counts against the floor area of the primary home.

20

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1 Commissioner Reckdahl: So, in the spirit of that, then treat the ADU the same way. Count it
2 towards the floor area and if they want to make it... make their twelve-hundred square feet or a
3 thousand square feet, they want to make that 100% livable, or want to carve out some of that
4 to be a garage, that's fine, that way we don't have to play any games about not letting doors
5 between garages and houses. So.

6

7 Chair Lauing: Commissioner Roohparvar. I didn't know if Commissioner Reckdahl was done but
8 go ahead. Commissioner Roohparvar.

9

10 Commissioner Roohparvar: So, just to clarify Mr. Sauls, are we allowing just a garage to be built
11 in addition... the attached garage that would be built for the ADU, that would count towards
12 the primary homes, like all those rules would apply right, it's not like... oh, you built an ADU and
13 you get a free garage.

14

15 Mr. Sauls: Yeah, that's correct.

16

17 Commissioner Roohparvar: Okay. Okay. That's helpful. I'm pretty supportive of staff's
18 recommendation, this makes sense to me.

19

20 Chair Lauing: Others? Commissioner Hechtman.

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Commissioner Hechtman: I'm also supportive of staff's direction on this, you know, we sometimes talk about concerns about onsite parking, as you know, as primary units are allowed to add ADUs and JADUs and here's an opportunity to encourage people to have, not only an onsite space, but covered, hidden parking. A formal garage. And I think we want to encourage that, and I think that the way we discourage the illegal conversion is the same way that we do with every single-family home and that is... actually we do it more because here, not only do we say you can't do it, that's not habitable space that garage. But also, you can't even have a door directly into it, which now they have to take even more aggressive steps to make an illegal addition to their ADU. So, I'm supportive of this concept to add garage structures on these sites.

Chair Lauing: Commissioner Chang.

Commissioner Chang: So just to... I think I heard this correctly, I just wanted to follow up on Commissioner Roohparvar's question. So, the garage won't count towards ADU floor area, but it does count towards the primary residences floor area?

Mr. Sauls: Correct.

Commissioner Chang: Alright, thank you.

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Mr. Sauls: So that's pretty much standard practice as it is right now. The difference was just if it's attached to the ADU, that's going to be slightly different.

Chair Lauing: Okay, Vice Chair.

Vice-Chair Summa: So, the garage that's attached to the ADU is for the primary home, not for...

Mr. Sauls: Either or. If there was a garage that was attached to an ADU, the way our ordinance is written currently, is that count... regardless of whether it's serving the ADU or if it's serving the primary home, if it's attached to an ADU, that counts or contributes towards the ADU's total floor area and lot coverage sizes. The provision before the PTC is today, is what was recommended previously from the PTC, which was to say, we would not count that attached garage to the ADU, towards the ADU's maximum floor area of maximum lot coverage. We would simply count it towards the site's overall floor area and lot coverage limitations.

Assistant Director Tanner: And to Commissioner Hechtman's point, part of the idea and discussion was around encouraging replacement parking, versus discouraging it and kept balancing that with encouraging folks to have ADUs as well as thinking about... maybe not say encouraging but certainly not making it equal whether they have three buildings a primary

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1 home, a detached ADU and a detached garage, or if it's two buildings... an ADU that may have a
2 garage attached or a home with a garage attached so again maybe flexibility might be the other
3 word that comes to... I think where the PTC was last time, we discussed this was allow some
4 flexibility in the configuration but at the same time encouraging, maybe not penalizing folks for
5 having replacement parking. At least against the size of the ADU.

6

7 Chair Lauing: Commissioner Chang.

8

9 Commissioner Chang: So then I have a question about this because it seems to me to make
10 sense, why not allow a property owner to build more parking on their property. It's being
11 counted as floor area so that seems to make sense to me and then the second piece there, do
12 we really think it's that much of a problem that people are going to want to convert that garage
13 to living space? Because part of it is it also then decreases the utility of having an attached
14 garage. You can't walk directly from the garage into the ADU. So, I wanted to ask Mr. Sauls, are
15 we seeing a lot of people wanting to build really big ADUs, as in like a second large house on
16 their property, and is that what we're trying to dissuade?

17

18 Mr. Sauls: Yeah, so there are multiple points to it. To one... firstly the two issues in particular
19 that are a concern to staff are there's a portion of a structure that's not built to living standards
20 that are then becoming something that is used as a living space. Which obviously creates a lot

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1 of life safety issues. Secondly, there is a threshold change between when a unit may or may not
2 require development impact fees. And that's also something that's also important to the city in
3 general to be able to collect those. And this distinction now would make it easier for someone
4 to say I have a six-hundred square foot ADU and a two-hundred-fifty square foot attached
5 garage, but I only have a six-hundred square foot ADU, I do not have an eight-hundred-fifty
6 square foot ADU. Where there's a threshold change of whether or not you're seven-hundred-
7 fifty feet or greater, you need to pay development impact fees. So there's probably those two
8 more critical points, and to your latter point, about are we seeing regular size units the answer
9 is yes, especially as a result of State Law providing effectively eight-hundred square feet for
10 anyone to build anywhere, mostly. I say anywhere, obviously with the understanding of those
11 other limitations, the four-foot setback, seven feet height and eight-hundred square foot size,
12 but that has spurred a lot more development to be larger. Where before we would see them
13 between two-hundred and four-hundred square feet, between 2017 and 2020, so it is
14 something that we are seeing.

15

16 Commissioner Chang: Okay, thank you for that, that's actually really helpful to be reminded
17 about the threshold issue with development fees and that being a substantial financial
18 incentive to do some non-law-abiding behavior. I think then, I came in here not too supportive
19 of this, but I think I'm convinced now to support staff's recommendation.

20

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1 Chair Lauing: Yeah, I just want to piggyback on that. I think what Mr. Sauls said is absolutely
2 correct and if you can get a much bigger unit to rent out, with potentially a third of it or more
3 being substandard, maybe even up to building code, because you're going to sneak it in, that's
4 bad for the inhabitants, the neighbors, and everyone else. The public commentator tonight
5 talked about doors, I think in this circumstance, but we also talk about it later between an ADU
6 and a JADU, I'm sorry, a house and a JADU that we can talk about then but, I don't see any
7 reason not to try and keep honest people honest, by making it a little bit harder to you know,
8 make changes that they know are illegal. That was kind of the phrase when I was in retail that
9 we would use. That's why you put up shop-lifting things, just to keep the honest people honest.
10 So, they don't think more than once about it and then pay for the item. So, I'm in support of
11 this. Vice chair.

12
13 Vice-Chair Summa: Thank you and thank you Mr. Sauls for that explanation because it provided
14 a lot more detail than even the staff report did and I... it helped me to decide to support this
15 also. So, thank you.

16
17 Chair Lauing: Commissioner Reckdahl.

18
19 Commissioner Reckdahl: I'm confused about the development fee. So you're saying that if I
20 build an accessory unit that's seven-hundred-fifty square feet, I have to pay a development fee.

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Mr. Sauls: Right. (crosstalk). Yes, it's that and obviously there are other aspects just related to the exemption that we provide for an eight-hundred square foot ADU, versus maybe a larger unit than that. There's that excess that still counts towards the site floor area and lot coverage. So, those numbers are important to us administratively to document.

Commissioner Reckdahl: So, how would this make it easier for us to collect development fees?

Mr. Sauls: The purpose isn't to make it easier for us to collect impact fees, in this instance, the distinction is that we would be saying, if you have an attached garage to... if you have a garage attached to an ADU, we don't count that garage towards the ADU's square footage size. So to some respect it would make it easier for someone to not have to pay development impact fees. If you think of it in the sense that you have a six-hundred square foot garage, I'm sorry, a four-hundred square foot garage, and a six-hundred square foot ADU, it's not a thousand square foot ADU, or a thousand square foot structure, it's just individually those two pieces. Even if they're attached, they're not combined together. Where our current ordinance does that.

Commissioner Reckdahl: I'm still confused. So, how is it advantageous for us to classify this as an ADU and a non-ADU garage?

-
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1 Assistant Director Tanner: So, I think, maybe I'll try it. Thank you, Garrett. You're very very
2 knowledgeable and so he can correct me if I'm wrong. I think, I don't know that it's
3 advantageous or disadvantageous it just could... either scenario either what's proposed or the
4 current ordinance, can incentivize or disincentivize certain behavior. So, you know, let's say
5 someone has a garage that's detached, I'm making this up (interrupted)

6

7 Commissioner Reckdahl: You're talking about an existing garage.

8

9 Assistant Director Tanner: If you have an existing garage, it's detached, they say, you know
10 we're going to have a garage, we're going to make our garage in to an ADU. Now suddenly they
11 have no covered parking on their lot. And we might say well, we want people to encour... have
12 covered parking and replace their packing. So, this might be a scenario where someone says
13 okay, I'm going to have an ADU, and I'm going to have a garage that's attached so I have two
14 structures. I have my primary home, and I have an ADU with an attached garage. To use
15 Garrett's example, my ADU is six-hundred square feet, and my garage is two-fifty, that attached
16 garage and ADU building, so it looks like one building, but we know it's two. From an
17 administratively, we'd say, okay that's six-hundred square feet of ADU that's fine, not going to
18 pay impact fees, that two-fifty garage is going to count towards your primary home and so in
19 that way, you have less structures, which some people might prefer, some people may not
20 care. You have two structures instead of let's say three, detached garage, detached ADU and

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1 primary home, and then they're also able to avail themselves and not pay impact fees, so
2 maybe it makes the ADU more feasible for that homeowner to build that ADU. So, it's again, I
3 don't know that it's better or worse, depending on your perspective of do you want to
4 encourage replacement parking, do you want to have fewer buildings possibly on a site. And
5 someone could still choose to have them all detached. They could have a garage, an ADU and a
6 primary home. That could be what they... maybe they have one of the larger ten-thousand
7 square foot parcels and so having multiple structures is not really an issue for them.

8
9 Commissioner Reckdahl: Okay, so the floor area of this garage is still being counted. It's not
10 being counted on the ADU, it's being counted on the original residence (interrupted)

11

12 Assistant Director Tanner: Primary home. Yes.

13

14 Commissioner Reckdahl: Okay, thank you.

15

16 Chair Lauing: Commissioner Chang.

17

18 Commissioner Chang: So, if it's being counted as part of the floor area of the primary home,
19 are there impact fees associated with that?

20

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1 Mr. Sauls: (crosstalk) No.

2

3 Commissioner Chang: It's because it's not livable space, is that correct?

4

5 Mr. Sauls: Yes. Only if it's turned into a housing unit that exceeds the seven-hundred-fifty
6 square foot threshold for an accessory unit.

7

8 Commissioner Chang: Thank you.

9

10 MOTION

11

12 Chair Lauing: Okay, if there are no other comments, I would move to support the staff number
13 three, parking provided for ADU as written.

14

15 SECOND

16

17 Commissioner Chang: I'll second.

18

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1 Commissioner Reckdahl: Chair I have a quick question. So, this prohibits a door going from an
2 ADU into the garage, if I want to put a door in there, then can I count that area towards my
3 ADU?

4
5 Mr. Sauls: Based on the language that we've prepared in the draft ordinance we would say
6 you're not allowed to have that door regardless. The answer would be... the question would be
7 left unanswered as to whether or not that counts towards the ADU or not, if you do have a
8 door. But I would assume that based on the discussions that we've had previously, which was
9 documented in all the minutes of the meetings that we've sent, in talking about this topic, as
10 well as what we've talked about tonight, I would assume that the sense so far is that we would
11 not be looking to count that garage towards the units maximum size of floor area and lot
12 coverage. It would simply be a code enforcement issue for them to close that door... close off
13 that wall.

14
15 Commissioner Reckdahl: But why are we precluding an ADU from including a garage. Weren't
16 we trying to encourage people to have offsite parking?

17
18 Assistant Director Tanner: Yeah, I mean I think that really is a... I think we as staff can see both
19 sides certainly, sometimes as staff we see more of the negative side, which is the folks who are
20 using garages in manners that are unsafe. Unfortunately that's a pretty common problem

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1 through the US, people are inhabiting garages, you hear all the time fires, and things like that
2 occur and it's not great. Now, on one hand you could say if someone is going to break the rules,
3 they're going to break the rules, door or no door, that's what they might do, I think Chair Lauing
4 kind of comment was to say let's help them to stay on the side of not being tempted to inhabit
5 the garage by not having the door there. That's kind of where staff is... it may be more
6 conservative to say let's like make it harder to go that direction of inhabiting the garage but
7 obviously someone could still do that if they wanted to do that. It's just kind of a deterrent but
8 certainly not one that is insurmountable.

9

10 Chair Lauing: Commissioner Chang.

11

12 Commissioner Chang: I think what Commissioner Reckdahl is saying is what if we have a law
13 abiding person who wants to pay the development fee... wants to count the ADU garage...
14 sorry... so what if we have a person who so badly wants to have a connecting door between the
15 garage and the ADU, that they're willing to count the garage square footage as ADU square
16 footage, then can we allow them to put a door in there. Would we allow a garage to be built.

17

18 Assistant Director Tanner: Currently as drafted the ordinance does not allow garage doors...
19 doors between the garage and the ADU if they are attached. So again, it's a... if you want a
20 different decision that's totally fine, it's just I think what you're suggesting would be more

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1 complicated to implement, I think you're allowing a garage or not allowing the door is easier for
2 the public to understand.

3

4 Chair Lauing: Yeah, and the only penalty in that place is that someone who's renting that place,
5 a small ADU, doesn't have an attached garage. Which doesn't seem like a huge issue in
6 California. Others? Commissioner Hechtman.

7

8 Commissioner Hechtman: Let me comment on Commissioner Chang's comment a different
9 way. If I really wanted my ADU to have a garage, could I propose that garage structure as living
10 space with a door, pay the impact fees associated with it, but use it, and I'd have to condition it,
11 I'd have to build it out you know, rated for living space, but could I then use it as a garage? Can I
12 have a garage door? Do I get my garage even though I paid the fees?

13

14 Mr. Sauls: I don't think the building code would allow you to have a garage door.

15

16 Assistant Director Tanner: That's what I was thinking Garrett.

17

18 Commissioner Hechtman: I think that get's the answer to your question a different way.

19

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1 Assistant Director Tanner: I think we can all appreciate the convenience of a garage.. a door
2 between your garage and house right, there's a certain sensibility to that, so, as I said, I think on
3 the staff side because we do work on the code enforcement, we see these issues, again, it
4 makes us a little more conservative in the proposal, and again I think you all can use your
5 wisdom to say that's too conservative, to kind of remove the convenience for those who are
6 doing right, or is it acceptable.

7

8 Commissioner Chang: I think what I'm suggesting is we want to incentivize people creating
9 parking. We don't want to incentivize people... and we don't want to make it easy for people to
10 use garage space as living space because that's dangerous. But there is this in between scenario
11 where someone genuinely, you know, I don't know, I've got a disabled person or something,
12 where it is a value to me to have the connecting garage. So can we say, you're allowed to have
13 an attached garage but... with a door through it, but in that situation, the garage counts as ADU
14 square footage. In all other situations if you're going to count it as house square footage, and
15 you don't want to count it towards ADU square footage, you're not allowed to put a door there.

16

17 Assistant Director Tanner: Certainly, if that was the direction of the PTC, we could craft an
18 ordinance to say that. It is complicated but you know, if that's what you all would like to do, we
19 can do that.

20

-
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1 Commissioner Chang: To me that seems... I mean it is complicated, but it also says this is what
2 you do if you're following the law, and it allows people to build the thing they want to build.

3
4 Chair Lauing: It just seems to me it's such a corner case that you get one a decade of someone
5 who wants a small ADU with an attached garage when they could just walk out like this and go
6 in the other door. Vice Chair.

7
8 Vice-Chair Summa: And I was going to say, in a situation like that, where there was a sensitive
9 tenant in the ADU and the primary homeowner wanted to let them use the garage, yeah, they
10 could just walk out the front door and go into the garage, but also there could be a covered
11 trellis or something to keep them out of the elements. I mean I very much appreciate you
12 thinking about all these potential future neighbors, but it might be a little overkill.

13
14 Commissioner Reckdahl: I do think it's kind of corner case so we're probably spending far too
15 much time on this, but there are some women, especially single women who live in a place,
16 they want to go in the garage, shut the door and then they feel much safer walking at night
17 from their perspective garage right into their apartment. And I can see there be some benefit to
18 this. Maybe we air on simplicity but.

19
20 Commissioner Chang: I'm sold on simplicity.

-
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2 Chair Lauing: Okay, let's do our roll call vote.

3

4 VOTE

5

6 Mr. Nguyen: Commissioner Chang

7

8 Commissioner Chang: Yes

9

10 Mr. Nguyen: Commissioner Hechtman

11

12 Commissioner Hechtman: Yes

13

14 Mr. Nguyen: Chair Lauing

15

16 Chair Lauing: Yes

17

18 Mr. Nguyen: Commissioner Reckdahl

19

20 Commissioner Reckdahl: Yes

-
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1

2 Mr. Nguyen: Commissioner Roohparvar

3

4 Commissioner Roohparvar: Yes

5

6 Mr. Nguyen: Vice-Chair Summa

7

8 Vice-Chair Summa: Yes

9

10 Mr. Nguyen: Okay, the motion carries 6-0 with one Commissioner Absent.

11

12 MOTION #3 PASSED 6 (Lauing, Hechtman, Summa, Chang, Reckdahl, Roohparvar) – 0 – 1
13 (Templeton Absent).

14

15

16 Chair Lauing: Okay. Item four on privacy, which we did in about three other hearings, talk a lot

17 about that and say that that was very important, so let's start on that platform. So, I think it

18 starts on the bottom of Page 17, but the meat of it is up on top of Page 18. Comments.

19 Commissioner Hechtman.

20

21 Commissioner Hechtman: Thank you Chair. So, I like the direction that staff took this coming

22 back from our feedback. I like these measures identified in the bullet points at the top of the

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1 page 18, and I look forward at the ordinance revisions to see if those concepts were carried
2 through and I like the way that was done. So, concept... here at the conceptual level on Packet
3 pages 17 and 18, I'm supportive of this approach described in the staff report.

4

5 Chair Lauing: Others. Okay. If there aren't any others, we can have a motion.

6

7 MOTION

8

9 Commissioner Chang: Okay, I move the staff recommendation for [unintelligible] for the
10 privacy issue little roman numeral four.

11

12 SECOND

13

14 Vice-Chair Summa: Second.

15

16 Chair Lauing: Second by the Vice Chair. No other discussion let's go for a vote.

17

18 VOTE

19

20 Mr. Nguyen: Commissioner Chang

-
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2 Commissioner Chang: Yes

3

4 Mr. Nguyen: Commissioner Hechtman

5

6 Commissioner Hechtman: Yes

7

8 Mr. Nguyen: Chair Lauing

9

10 Chair Lauing: Yes

11

12 Mr. Nguyen: Commissioner Reckdahl

13

14 Commissioner Reckdahl: Yes

15

16 Mr. Nguyen: Commissioner Roohparvar

17

18 Commissioner Roohparvar: Yes

19

20 Mr. Nguyen: Vice-Chair Summa

-
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Vice-Chair Summa: Yes

Mr. Nguyen: Okay, the motion carries 6-0 with one Commissioner Absent.

MOTION #4 PASSED 6 (Lauing, Hechtman, Summa, Chang, Reckdahl, Roohparvar) – 0 – 1 (Templeton Absent).

Chair Lauing: Okay, now the next two items, Mr. Sauls, I think you can speak to those, because it looks like there isn't really any action to be taken.

Mr. Sauls: Right. Yeah, so after the discussions we had last year, the PTC asked staff to audit the fees we're taking in for ADUs since 2020, since the new State law, modified what units would be exempt from impact fees, and so, like I had mentioned in my presentation earlier, we did that audit. We did not find any units that had been kind of capped, near a captured you know, consequentially, within that area. And I know there were some illusions during the public comments during those times that you know, there may be some instances where staff are not catching, in which case again, I offer that anyone who's listening, you know, please direct any specific, you know, locations or permits to us in case the audit we performed might not have some how been wide enough, or cast a wide enough net to catch anything. We can certainly resolve those issues if that's the case. And then related to the deed restriction, like we said

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1 before in the staff report this is something that the Council needs to direct staff to do, so we'll
2 present that to Council when we get there. But the PTC's recommendation was to find a way to
3 rescind the previous deed restrictions that required owner occupancy prior to 2020, where the
4 State put a freeze until 2025 for cities to require owner occupancy.

5

6 Chair Lauing: Right. Okay, Commissioner Chang.

7

8 Commissioner Chang: I just wanted clarification on that. So, formerly we required that ADU's
9 were occupied by the owners, is that correct?

10

11 Mr. Sauls: Correct.

12

13 Commissioner Chang: okay (crosstalk)

14

15 Mr. Sauls: I'm sorry either one. That's correct. Either or, either the second unit or the primary
16 unit.

17

18 Commissioner Chang: Got it. Thank you.

19

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1 Chair Lauing: Okay, so no action required on that, so now we're down to corner lot incentives.

2 Commissioner comments?

3

4 Assistant Director Tanner: If Commissioners do have questions we actually have a diagram
5 about this that Garrett can show, but again, corner lots are a special situation and we worked
6 with the Commission to come up with an idea to try to have a little more harmony between the
7 primary home and the ADU that could be constructed on the corner lot. So this diagram I think
8 shows the three potential configurations and really just encouraging, again not requiring, that
9 the ADU, which is the red box on the right side be aligned with the street side yard setback of
10 ten feet, and so essentially in the middle, you have the house setback sixteen feet on the
11 streetside yard and the ADU perhaps would be closer to the street, and so this could kind of
12 bring some alignment and some visual harmony to the alignment of those buildings. And I
13 believe again, this is Table Two ADUs, correct Garrett? I think that the (crosstalk)

14

15 Mr. Sauls: That's correct.

16

17 Assistant Director Tanner: Table One could be four feet from the property line on the streetside
18 yard.

19

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1 Mr. Sauls: Correct. This would be for Table Two units only. And while the graphics does show,
2 you know, substandard corner lots, that was mostly just the graphic we have at hand to
3 represent this relationship. It wouldn't be specifically for these types of lots. It would be for any
4 lots like the center image as well.

5
6 Chair Lauing: Commissioner Hechtman.

7
8 Commissioner Hechtman: So, I thought I understood this until I saw the diagram. But I think
9 what's happening here is by State law, I'm allowed to build my ADU within 4 feet of the street
10 on the street side, the streetside yard, right. And we'd like to discourage that proximity to the
11 streetside street and what we talked about a year and a half ago was an incentive that if you'll
12 move that ADU back ten feet from the street, we'll let you move your primary residence from
13 sixteen feet from that streetside up to ten to feet. Okay.

14
15 Mr. Sauls: As well as allowing for, there was discussion at the time to allow the front setback
16 also to be reduced to sixteen feet instead of twenty.

17
18 Commissioner Hechtman: Okay. Alright. So, I remember vaguely that discussion and now that
19 we've had it this makes sense and it doesn't just apply to a substandard corner lot, that just
20 happens to be the image you were able to find showing it.

-
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Mr. Sauls: Correct.

Commissioner Hechtman: So, I'm supportive of the way staff has carried forward that concept in the first two paragraphs of Item C, one little (i), I think there's a separate issue for us to talk about with covered parking space at some point.

Chair Lauing: Commissioner Chang.

Commissioner Chang: I am also supportive of the first two paragraphs of C, little (i), but had a question about the second issue about the garage. And I thought that that issue was already... I thought that we had addressed that issue already, that we're kind of removing the two-step process. So, is it just that this is added clarification that the removal of the two-step process also applies to corner lots?

Mr. Sauls: So, this specifically, so we didn't ever remove that two-step process. This would effectively for corner lots, allow that by right where in the discussions we had previously we had discussed whether we wanted to create or incorporate that as an incentive to the affordable ADU program, for every property in the City. Where the PTC said for corner lots we feel comfortable allowing this for all corner lots by right without any sort of incentive for

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1 whether the unit is affordable or not. For all the rest of them, PTC still wanted to look at that as
2 an affordable incentive.

3

4 Commissioner Chang: So that's not my recollection of the discussion when we had the
5 affordable incentives discussion. My recollection, maybe, again, it was a long time ago, my
6 recollection was that while we were having the affordable discussion about whether we should
7 make it an incentive, I thought we had agreement that we just wanted to extend it across... that
8 we wanted to completely remove it.

9

10 Assistant Director Tanner: Yeah, and I think partly that discussion happened over a couple of
11 meetings and so where it ended, Mr. Sauls and I had talked about this because I had the same
12 thought, and in the end what was asked was to bring back the items as affordable, which is
13 Item D, and then you all would look at them with fresh eyes and all consolidated to say okay,
14 does this make sense as an affordable package, or are these incentives, I think at the time the
15 indication was... maybe these incentives are not enough to make someone do affordable, but
16 they're good efficient, good government kind of things and good ADU policy, and so that's part
17 of the question for part D, is like, do you just want to make these for everybody, in which case
18 this corner lot allowance for the awarded two-step would be not special. But let's say all, it's
19 the ADU package and said oh yeah this makes sense in the affordable ADU package. We're still

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1 kind of giving some flexibility to corner lots because they kind of have some constraints that
2 other lots just don't have.

3

4 Commissioner Chang: Okay, thank you. I mean I'm definitely supportive of it for corner lots
5 them.

6

7 Chair Lauing: Commissioner Hechtman did you want to come back to the parking lot issue
8 there?

9

10 Commissioner Hechtman: No, I'm supportive.

11

12 Chair Lauing: Okay. Let's see... Commissioner Reckdahl.

13

14 Commissioner Reckdahl: Yeah, I don't know how paranoid to be about this kind of stuff. It
15 seems quite reasonable but also, you know, Palo Alto, we have really expensive houses, and
16 people love their backyards and will people use this as a way of getting around the setbacks on
17 a corner lot, put a modular ADU in the back, build your big house, two years later get rid of your
18 modular ADU and now you've gotten around the setbacks. And, maybe that's the chance we
19 take when we're trying to encourage ADU's.

20

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1 Mr. Sauls: I think the approach primarily was to find a way, not necessarily to disincentivize... I
2 guess maybe a way to disincentivize to some extent, ADU's being put on the streetside at four
3 feet setbacks. Right. So, one of the methods we had thought about were can we give in other
4 areas where a corner lot is traditionally limited as Assistant Director Tanner was mentioning,
5 you know, where that could be a greater pull factor where, for their primary home they can
6 extend a little bit so long as the ADU is further back into the lot, whether it's attached at ten-
7 feet, detached at fifteen or twenty feet, the purpose is to push the ADU back further so you can
8 have your primary home go a little further into the streetside setbacks. (crosstalk)

9
10 Commissioner Reckdahl: As intended I think it's a really good idea. And I support it. But
11 gnawing in the back of my head is well... you know, people are spending millions of dollars to
12 build monster homes and if they can get an extra 10 feet of back yard that's probably worth
13 putting an ADU in the backyard during construction, and then getting rid of that.

14
15 Assistant Director Tanner: I would just say while somebody could illegally get rid of their ADU
16 or not rent it, it would not be allowed under policy to decrease the unit, get rid of the unit
17 completely. So again, they could be not renting it, but we would not permit them to remove the
18 ADU.

19

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1 Commissioner Reckdahl: Yeah, I think that's reasonable, that would address my concern, but
2 then again would people feel their hands are tied. Well, I guess if you're building this house and
3 you move the main house in it, then yeah, okay. Then you've made a commitment to this. I
4 don't know, what do other people think.

5
6 Chair Lauing: Vice-Chair Summa.

7
8 Vice-Chair Summa: Thank you. I'm generally supportive of this and I think State law really does
9 prohibit loss of units in the City, so I think it would be pretty illegal to airlift out your mobile
10 unit.

11
12 Commissioner Reckdahl: So, if I put an ADU in and ten years down the road I'm sick of the ADU
13 I can't remove it?

14
15 Vice-Chair Summa: I think it would be considered, I mean, we have experts to answer this my
16 understanding is it would be considered a loss of a unit.

17
18 Assistant Director Tanner: Right. And actually Mr. Yang can chime in, that was my
19 understanding... and maybe part of it too, Albert I'm forgetting have our no net loss policy in

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1 the City or if we're still relying on the State's no net loss policy. I think it's still part of our
2 housing element to add that, if we don't have it already.

3

4 Mr. Yang: Yeah, so, part of the State Housing package, this does sunset, I think in 2030, is that
5 you can not have a single... you can not have a new single-family project that results in a loss of
6 units. So, is simply removing a unit a new housing development project, I don't know under the
7 current State definitions but as Rachael mentioned, one of our Housing Element initiatives for
8 this next coming cycle is to have a stronger local no loss of housing units' policy. So, if we do
9 adopt that local policy, you would not be able to remove that ADU, if you got sick of it.

10

11 Commissioner Reckdahl: Okay, very good. Thank you.

12

13 Vice-Chair Summa: And... but understanding there's no requirement when you build an ADU
14 unless our deed restriction for ADUs... affordable ADUs gets enacted, that you rent it to
15 someone. So, we still don't have that assurance.

16

17 Chair Lauing: Commissioner Hechtman.

18

19 Commissioner Hechtman: So, a variant on Commissioner Reckdahl's fear of devious ADU
20 builders, it's an interesting question that I hadn't really thought of, and I think the no net loss

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1 concept addresses that generally but a spin on that is... okay, I take the deal from the City, I'm
2 going to move my ADU at least ten feet from the side yard setback, build my house, now my
3 house is built and I apply to relocate my ADU, which maybe I built a modular way so it would be
4 easy to relocate, over to four feet from the property line. So I get the benefit of the deal, but
5 then I don't give the neighborhood the benefit of the deal. And, again, I think this is going to be
6 the very small exception, but I can imagine that happening and I was trying to think through
7 how do we stop that. How do we stop that at the gate, say no... you're not going to be able to
8 do that and here's why, and I didn't immediately come up with an answer and Mr... maybe Mr.
9 Yang already figured out here's why that can't be done.

10

11 Assistant Director Tanner: Staff.. we're having a little our chat are interested in exploring this
12 topic more, just kind of thinking a little more about how to prevent anyone from gaming the
13 system so I would suggest if the Commission has overall support of the concept we could
14 noodle this a bit more, kind of on the implementation side, like what safe guards would we
15 need to make sure the incentive is honored and not kind of taken advantage of.

16

17 Chair Lauing: Vice-Chair Summa.

18

19 Vice-Chair Summa: Thank you. I was thinking a more likely scenario for gaming the system
20 would be an attached ADU, so you get the benefit of the setback, it's attached, you don't even

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1 have to, you know, it would be part of your bigger house. So, that... I don't know how to
2 prevent that...

3

4 Assistant Director Tanner: I think we would still say... I mean I think we would still say if you're
5 having a primary and an ADU attached, that you still get the ten feet, so you don't get to go
6 then to four feet, I think there is an argument to be made that under State law they already
7 could have an attached ADU at four feet, so there's no reason to provide the incentive for the
8 remainder of the primary home, if that makes sense. So, I think... again, they could do that, but
9 I think they could already do that, under the state law.

10

11 Vice-Chair Summa: I see.

12

13 Chair Lauing: Okay would someone like to make a motion on this item.

14

15 MOTION

16

17 Vice-Chair Summa: So, I make a motion to follow staff's recommendation see corner lot
18 incentives on Packet page 18, continuing to the top of Packet page 19.

19

20 SECOND

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Commissioner Chang: Second.

Chair Lauing: Commissioner Chang seconds. Any further questions or comments? If not, let's go to a roll call please.

VOTE

Mr. Nguyen: Commissioner Chang

Commissioner Chang: Yes

Mr. Nguyen: Commissioner Hechtman

Commissioner Hechtman: Yes

Mr. Nguyen: Chair Lauing

Chair Lauing: Yes

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1 Mr. Nguyen: Commissioner Reckdahl

2

3 Commissioner Reckdahl: Yes

4

5 Mr. Nguyen: Commissioner Roohparvar

6

7 Commissioner Roohparvar: Yes

8

9 Mr. Nguyen: Vice-Chair Summa

10

11 Vice-Chair Summa: Yes

12

13 Mr. Nguyen: The motion carries 6-0 with one Commissioner Absent.

14

15 MOTION #5 PASSED 6 (Lauing, Hechtman, Summa, Chang, Reckdahl, Roohparvar) – 0 – 1
16 (Templeton Absent).

17

18 Chair Lauing: Great, thank you. I think per our original agreement we're going to skip D. Yeah

19 D.

20

21 Mr. Sauls: Yeah, that's correct, it was D.

-
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1

2 Chair Lauing: So, all of these, so we're going to go over to E, which is atop page 21. I had one
3 clarification question, has anything changed in this now that we have objective standards, so
4 the bottom of the second paragraph.

5

6 Mr. Sauls: Objective standards included in the definitions a new clarification that primary unit,
7 ADU and JADU doesn't count as multi-family, this would carry that through this specific section
8 as well to basically say the same thing, in this roman number (i), sorry, roman numeral one.

9

10 Chair Lauing: Yeah. Any questions of these from Commissioners? Commissioner Chang.

11

12 Commissioner Chang: Yeah, so roman numerals (i) one two and three looked good to me, I had
13 a question, or a thought about roman numeral four on packet page twenty-four, the underlined
14 section. So I am fully supportive of the idea that sanitation facilities should be located on the
15 same floor level as the JADU, but I'm wondering if there's anything we can do to make it even
16 closer. Like adjacent. I would suggest that the... it shouldn't be on the opposite side of the
17 house. So...

18

19 Chair Lauing: You zoomed right along. I thought we were going to just go through one, and
20 then two and three (crosstalk)

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Mr. Sauls: No, No, don't pull her back!

Commissioner Chang: I'm happy to go backwards but I thought the were, they seemed pretty non-controversial to me. So, I didn't have questions about those sections.

Chair Lauing: Let's just take a pause and see if people have questions on one or two, and if not then three, so we can hold on voting on those. So, now we're on to four. Oh, I'm sorry, I was reading and not watching. Commissioner Hechtman.

Commissioner Hechtman: I was just moving this along to give feedback that I'm also supportive of E (i), (ii), and (iii) which gets us to four.

Chair Lauing: Commissioner Reckdahl

Commissioner Reckdahl: I just for two, I agree with staff recommendation, that should be on the outside studs of the original... primary structure.

Chair Lauing: And three, did you have anything for that?

-
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1 Commissioner Reckdahl: No, not for three.

2

3 Chair Lauing: Okay, Yeah.

4

5 Commissioner Reckdahl: I do have a comment on four.

6

7 Chair Lauing: Go ahead.

8

9 Commissioner Reckdahl: Okay. Are we allowed to require a bathroom in a JADU?

10

11 Chair Lauing: (crosstalk) you mean?

12

13 Commissioner Reckdahl: What?

14

15 Chair Lauing: By State law you mean?

16

17 Commissioner Reckdahl: Yeah, would the State law allow us to require a bathroom for a JADU?

18

19 Mr. Sauls: So it requires that those standard sanitation facilities exist, it does not necessarily

20 require that they have to exist within the unit. That's why it says that, that's why in 2017 they

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1 allowed for you know, effectively doorways between Junior ADUs as compared to ADUs so that
2 there could be that... those sanitation facilities served by you know the primary homes.

3

4 Commissioner Reckdah!: So if we wanted to we could require that JADUs have a bathroom for
5 the unit, dedicated bathroom.

6

7 Assistant Director Tanner: I don't know if we could. I think because, part of our conversation
8 with HCD just really in their letter, was just really trying to emphasize... from their perspective,
9 that you know, what State law says basically the City should not be more restrictive. Summary.
10 And so I think they might see that as more restrictive now that's not to say we couldn't try to
11 do it, but I think part of the intentions of the JADU is to provide what you might call like a true
12 mother-in-law unit where there is somebody that is part of the household, but kind of has some
13 access... and they could have their own bathroom and kitchen and everything, or they could not
14 and I think that's part of purpose of the program.

15

16 Mr. Yang: Yeah, I'll just jump in to say that the State law you know, specifically says that a JADU
17 can have separate sanitation facilities, or they can share sanitation facilities with the existing
18 structure. So I don't think that we would have the... be able to say that they have to have their
19 own dedicated bathroom.

20

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1 Commissioner Reckdahl: But yet in the staff's underlined text there, we're saying that it has to
2 be on the same level. Wouldn't that be more restrictive? Wouldn't that fail also?

3

4 Mr. Yang: Yeah, I mean potentially, you know, we could get a letter from HCD telling us that's
5 exceeding our authority, I think staff thought this was you know, something on the boundaries
6 that just made a lot of sense.

7

8 Assistant Director Tanner: And as you see in our letter, sometimes we like to roll the dice and
9 see what they say.

10

11 Mr. Sauls: I will add, too, that in a previous iteration of the staff report, there was to
12 Commissioner Chang's comment some potential language to have more relationship and
13 distance to the JADU to that sanitation facility which was struck out, related to what Mr. Yang is
14 talking about.

15

16 Commissioner Reckdahl: Oh, the State struck that out?

17

18 Mr. Sauls: No, we internally were reviewing that potential revision and we felt that it would be
19 as Mr. Yang was saying, harder for us to say with has to be within you know, say five or ten feet,
20 whichever threshold that we said, it has to be some proximal distance from the unit. Rather

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1 than saying it has to be on the floor level, seems pretty reasonable. You know, for any need to
2 accommodate anybody's sort of need, if you were going to say you know, if you were going to
3 take the position that could be, in a complete opposite corner, on the second floor where this
4 unit is in the opposite corner on the first floor, I think that's where some reasonableness of it is
5 where we're taking this approach with this specific language, where we felt that it's not as
6 controversial and could be acceptable still.

7

8 Commissioner Reckdah! It just seems that we're not precluding them from renting this.
9 Anyone can rent a room from their house. But we're giving them extra floor space because this
10 is a separate unit. We're giving this the privilege and I think adding a bathroom would be a
11 reasonable thing to add, that would not... it's in the spirit of that we're adding... we're giving
12 you the benefit of extra FAR and in return you have a separate unit that has it's own bathroom.
13 That would be quite reasonable to me, but... I guess...

14

15 Chair Lauing: Yeah, I agree in the language in a number of places here talks about the complete
16 independence of the JADU and I don't see any independence at all. They don't have to have a
17 stove, a cooking... I agree, it's like renting a room in your house.

18

19 Mr. Sauls: The JADU does need to have cooking facilities. That is not something that is included
20 as something that can be shared between these two units. They do have to have a kitchen.

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Commissioner Reckdahl: But that could be a microwave, right?

Mr. Sauls: No, it could not. (crosstalk)

Assistant Director Tanner: in facilities and what would have to (interrupted)

Commissioner Reckdahl: Okay.

Mr. Sauls: It's just the bathroom that has more specific language as Mr. Yang was talking about that says it can be shared between the spaces, whereas previously kitchens were not clearly defined, we added some clarity there.

Chair Lauing: I didn't mean to say cooking, but you know, showers, and bathrooms and all that, you're going to be infringing upon anyone else that's in the house. So, this turns into a grandmother unit. And a lot of grandmother units could/should be independent, for that individual as well. I'm just thinking about the renters in here, or the occupants, not any ill intent on the part of the owner.

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1 Assistant Director Tanner: Yeah I think it certainly, again, the JADUs and Mr. Sauls can speak to
2 this, have become a little bit popular in the last, I think we said year, Garrett, I think that
3 they've... the increase in the applications for JADUs but ADUs are still the abundance of our
4 applications, you know, fully independent. And maybe as we get more JADU applications, we
5 can learn more about how people are configuring them, are they fully independent, or are they
6 open to the main home. I certainly think that practically speaking if they are connected and
7 sharing a bathroom it would suggest either a roommate or a real family member is living there,
8 as opposed to just a random person, I know that could happen. But then you still have the
9 option of having a truly independent, closed off JADU that has it's own bathroom, has it's own
10 kitchen as well. I think if the Commission is interested in us having something that looks at
11 more proximity, I think the challenges of that are one, just the implementation of it, measuring
12 the distances between, I think sort of staff just arrived at the same level, is easily identifiable,
13 we can verify... yup it's on the same level, and for those who are truly trying to create a space
14 for a family member, they may have a space to add a room on one side of the house but it may
15 not be close to the bathroom, and so... to allow that flexibility.

16

17 Mr. Sauls: And to add just a small amount to that, you know we've seen basically a twenty-five-
18 fold increase in Junior ADUs submitted to the City in just the last year and a half. But I think the
19 other challenge is just many of these are conversions of existing spaces, so you're going to also
20 run into a lot of issues of what's existing there that the property owner might not be trying to

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1 touch related to this specific unit, which is where, if things are on the same floor level, generally
2 that's going to be a lot easier to accommodate than that proximity distance.

3

4 Chair Lauing: Commissioner Hechtman.

5

6 Commissioner Hechtman: So, added space, this language is a necessary fix. Right. Right now,
7 we don't recognize in our ordinance, shared facilities between a primary and a JADU and we
8 need to. Because State law says that could happen. So, we're trying to legislate. So, the overall
9 concept I agree with. I appreciate that staff is pushing the envelope when they say located on
10 the same floor level, but I think that this item will somewhat self-regulate because, if I'm going
11 to create a JADU and choose to have the shared bathroom, I'm not going to want a stranger to
12 have to wonder through my kitchen and living room to get to the shower every day. If that's my
13 layout, I'm probably... if I'm going to rent to a stranger, I'm probably going to put the extra cost
14 in to building a bathroom as part of the JADU. On the other hand, if it's my mom, a relative,
15 maybe more interaction, it's going to be okay. So, I don't really... and again, I appreciate that
16 State law doesn't talk about any spatial distance, and so staff has taken a little bit of a fly on this
17 one and I think that's an appropriate idea, let's try to at least get it on the same floor. I did have
18 a language question that I flagged in the things that I sent out, but I'll hold that until we are
19 talking about the specific language, and I'll just say that overall I'm supportive of the concept of
20 number four, C (iii).

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Chair Lauing: Okay, Commissioner Roohparvar did you have a...

Commissioner Roohparvar: Yeah, I was just going to say, no, I'm supportive as well. I do think it's a bit pushing the boundaries because it does feel more restrictive than State law, just on it's face when you read it, so let's see what the HCD says, the fact that it needs to be on the same level. But I'm supportive as well.

Chair Lauing: Yeah, I'm okay with that approach in terms of... I think we should make an attempt there just for reasonableness, as Garrett said, and you know, see what we can do. And I don't disagree with Commissioner Hechtman that there could be some self-regulation here, a JADU that they're going to rent out is going to be a lot different in terms of who they get. So. Okay. Any other questions on that? Then we can go to six, sorry five. Calculating gross GFA. Yeah, this was about math calculations basically.

Commissioner Reckdahl: I thought this was ridiculous. We really have to do this huh?

Chair Lauing: Yeah, we don't have to spend a lot of time on it. That's the good thing.

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1 Assistant Director Tanner: It does seem very minute and I think this is part of why staff are
2 bringing it because we just want to be on the same page and make sure we're all doing math
3 the same way, that we were taught, at least I was taught, and you'll be surprised what folks
4 want to do and how close the lines they want to get of rules and so, it may seem a little overkill
5 to do this, but we don't want to have to go back and forth with the individuals who would insist
6 on towing the line in this manner.

7

8 Chair Lauing: Commissioner Chang.

9

10 Commissioner Chang: So, I am supportive of doing whatever it takes to make staff's life easier,
11 and this... and for number five, and I would argue that a thousandth of an inch can't really be
12 reasonably measured so if staff felt like it could be reduced in accuracy a little bit, because that
13 would be more reasonably measured and might make your life even easier, I would be
14 supportive of that. But I don't know, I defer to staff with respect to where that cut-off should
15 be. But I encourage you to make... to make it easier for yourselves.

16

17 Mr. Sauls: Yeah, the hundredth of an inch is, which is two decimal points, I apologize, math is
18 not my forte either, so I completely understand this. But the hundredth decimal points which is
19 two decimals after the point basically, that is measurable, versus a thousandth point. Which is
20 why we're trying to say, you know, represent it as a hundredth point but make sure to do the

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1 calculations to the thousandth because that rounding factor can impact you know, it may be
2 ridiculous or silly as it sounds, whether or not we say that something is too big or not. Just base
3 on those flat ratios and thresholds that the City has adopted for land uses, development
4 standards within our City based on the type of land uses that we expect.

5

6 Chair Lauing: Commissioner Hechtman.

7

8 Commissioner Hechtman: Thank you Chair. I just wanted to let you know that I am supportive
9 of item C.5, 6, 7, and 8, without further comment.

10

11 Chair Lauing: Five, six, seven and eight. Okay. Commissioner Roohparvar.

12

13 Commissioner Roohparvar: Thanks, if we're on six, I had a clarifying question for Mr. Sauls. So,
14 it says based on this accessory building with a substantially open covered porch or patio. What
15 does that mean? Like open or covered?

16

17 Mr. Sauls: Yeah, so it's (crosstalk) it's both, right, you can have an uncovered porch that's
18 greater than 30 inches, that would count towards lot coverage, so there's this weird threshold
19 about floor area and lot coverage in our code that for some, when you look at each of those
20 individual structures themselves and an enclosed shed versus a porch or a covered patio, when

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1 we look at that and how that applies to a primary buildings, we always look at a porch or patio
2 usually as lost coverage, unless there's specific times when it might not be. There wasn't really
3 that distinction in the Municipal Code for these specific types of structures which we've seen
4 more often as of recently in the last five to ten years and so staff kind of made an informed
5 decision to say well, if it didn't count as floor area for the main house, it shouldn't count as
6 floor area for the shed, just because the shed is a hundred-twenty square feet, now you're
7 going to you know, one-hundred-sixty or some other some odd number to it right, this would
8 just be codifying that.

9

10 Commissioner Roohparvar: Got it. That's helpful Thank you. I don't have comments on the rest
11 of them either.

12

13 Chair Lauing: And just for the record, you're talking about accessory buildings here, just so we
14 have it in the ordinance and distinguish it from actual (crosstalk) correct?

15

16 Mr. Sauls: Correct.

17

18 Chair Lauing: Okay. Any other questions on that? Yup, Commissioner Chang.

19

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1 Commissioner Chang: I'm sorry, I don't want to drag this out, but I'm still confused what
2 problem we're trying to solve with number six. So, Mr. Sauls if you could explain what's going
3 on and what you're seeing and, I mean I believe you that we need to add this if you think it
4 needs to be added, but I just don't understand what the problem is.

5

6 Mr. Sauls: Sure, in our Municipal Code it specifically says that we exempt accessory buildings
7 that are hundred-twenty square feet or less from gross floor area. A hundred and twenty-one
8 square foot structure or 120.0-whichever, if you wanted to be more particular, would
9 technically count towards gross floor area for the site. When you add other... for the other
10 components of a building, like I said before, for an uncovered patio, or even a covered patio,
11 that traditionally are counted as lot coverage. So, when you have a hundred-twenty square foot
12 shed, it's counted as lot coverage, but it's not counted as floor area. If you add on an uncovered
13 porch or a covered porch, our code would technically say that should count towards gross floor
14 area, which creates this weird anomaly, you have components of a building that would
15 otherwise not count as lot coverage in every other situation so why is this then discouraged in
16 that manner. Staff made an interpretation a long time ago to say it doesn't make sense to say,
17 just because you have a covered porch now that structure, you know, is floor area if the porch
18 is not enclosed, right. If it was a wholly enclosed square or block or rectangle, it would make
19 more massing and volume to the structure. It would add more massing and volume to the
20 structure. But separate from that, it doesn't. Or we treat it differently from the primary homes.

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1 So, this is again, just trying to codify that practice that staff has of not counting, you know,
2 uncovered porches or covered porches that aren't substantially enclosed, not triggering that
3 space, that whole structure to count as floor area.

4
5 Assistant Director Tanner: (Mic off) as people are at home or have at least been at home more,
6 the last two years, I think perhaps years ago we would think mainly as garden sheds as probably
7 the primary type of hundred and twenty or less square foot thing that folks are using, but now
8 we're seeing quite a variety probably of structures and things like this and I think also with the
9 allowance of ADUs, and kind of how that fits in the mix now, we're just kind of trying to look at
10 these things and trying to make a code that has some consistency and some kind of reasonable
11 sensibility of how these different types of accessory structures are being measured relating to
12 each other and this seemed like an opportunity to again, caught up by something that we're
13 doing and seeing and maybe seeing more of, as more accessory structures are proposed.

14
15 Commissioner Chang: Makes sense to me, thank you for your explanation Mr. Sauls, as always,
16 very very helpful.

17
18 Chair Lauing: Okay, so if someone likes to, they can make a proposal, a motion on let's see,
19 where are we, E 1-8.

20

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1 Commissioner Reckdahl: I had a question on seven.

2

3 Chair Lauing: Go ahead.

4

5 Commissioner Reckdahl: The fixtures. So, what situation are we worried about in the fixtures.

6 This is similar to Commissioner Chang's question about the previous one.

7

8 Mr. Sauls: Yeah, so, the issue that we're more so experiencing, is we've seen a lot more code
9 enforcement cases where we receive smaller structures that have you know, kind of a half
10 bathroom put into it, there's a shower, and a toilet put in, you know, and then we receive a
11 complaint where an accessory building has been illegally converted into an ADU. And if you
12 think of what is easier to put in, a sink or a shower, that is pretty easy to answer, to say a sink is
13 easier to kind of plug into a wall than a plugging in a shower. Additionally, to that we've been
14 working on other code enforcement cases where people have been proposing putting in like
15 washer and dryer, so maybe those have been more specific fixtures or appliances that are
16 called out, in that potential code change. To effectively say you know, we're really trying to
17 delineate what is allowed within those structures where previously it was just kind of, just
18 related to plumbing fixtures. All it said was you can have two plumbing fixtures and that's
19 pretty much it. We as there are other things that people are putting in, gas lines, effectively

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1 trying to create the essence of a second unit but not going that full length to do so and that
2 causes life safety issues just related to how that structure is constructed versus how it's used.

3

4 Commissioner Reckdahl: The code difference between accessory structure and a regular
5 structure. That's it?

6

7 Mr. Sauls: Yeah. Accessory building and ADU. Yeah.

8

9 Commissioner Reckdahl: Okay. Thank you.

10

11 Chair Lauing: Anyone in a motion mood?

12

13 Vice-Chair Summa: I'll do it.

14

15 Chair Lauing: Vice-Chair Summa.

16

17 MOTION

18

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1 Vice-Chair Summa: I move to approve staff recommendation on E starting on packet page 21,
2 one through eight, well, let me put it better. Starting on Packet page 21, going to Packet page
3 27, 1-8.

4
5 SECOND

6
7 Commissioner Chang: Second.

8
9 Chair Lauing: Any other comments? Commissioner Hechtman.

10
11 FRIENDLY AMENDMENT

12
13 Commissioner Hechtman: Just a clarification, we've been trying to call these motions as we've
14 been going along as conceptual approval because we still haven't dealt with the ordinance. Was
15 that your intention?

16
17 Vice-Chair Summa: Yes. We can add the word conceptual.

18
19 Commissioner Hechtman: Thank you.

20

-
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1 Chair Lauing: Okay, no other comments, lets move to a roll call vote.

2

3 VOTE

4

5 Mr. Nguyen: Commissioner Chang

6

7 Commissioner Chang: Yes

8

9 Mr. Nguyen: Commissioner Hechtman

10

11 Commissioner Hechtman: Yes

12

13 Mr. Nguyen: Chair Lauing

14

15 Chair Lauing: Yes

16

17 Mr. Nguyen: Commissioner Reckdahl

18

19 Commissioner Reckdahl: Yes

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-
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1 Mr. Nguyen: Commissioner Roohparvar

2

3 Commissioner Roohparvar: Yes

4

5 Mr. Nguyen: Vice-Chair Summa

6

7 Vice-Chair Summa: Yes

8

9 Mr. Nguyen: The motion carries 6-0 with one Commissioner Absent.

10

11 MOTION #6 PASSED 6 (Lauing, Hechtman, Summa, Chang, Reckdahl, Roohparvar) – 0 – 1
12 (Templeton Absent).

13

14

15

16 Chair Lauing: Thank you then. Okay so that brings us back to, in this first phase, in this roll,

17 incentives for, it's called the incentives for affordable ADUs packet page 19. And there really are

18 two angles to this and I'm raising this for Garrett to chime in, one is the specifics about doing

19 anything for affordable ADUs differently, making ADUs more affordable and secondly is, are

20 there some of the things here that we should just do for ADUs. Is that correct? That's sort of

21 two subject lines...

22

23 Mr. Sauls: Correct.

-
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1

2 Commissioner Hechtman: Mr. Chair?

3

4 Chair Lauing: Yeah.

5

6 Commissioner Hechtman: Can I ask a question before we wade too deep into this?

7

8 Chair Lauing: Yeah.

9

10 Commissioner Hechtman: So I'm noticing that it's ten until ten...

11

12 Chair Lauing: That's where I was going.

13

14 Commissioner Hechtman: Yeah, but what I was going to suggest, is unless we're going... well,
15 what I was going to suggest is we have some ordinance language issues that I think will be
16 pretty quick. And so, one possibility, I think we could accomplish tonight without staying too
17 much later, is to talk about the ordinance changes, except for this D, affordable ADU program,
18 segregate that, and then we have the staff report affordable, which you were just starting to
19 raise and the ordinance language with dovetails with it, and that is it's own little package, just

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1 as a concept. Again, I don't think that... I don't know what other Commissioners have to say on
2 the particular language of the ordinance, but I don't have a lot to say.

3

4 Chair Lauing: I'm open to, lots of options, what my starting point is the same as yours is it's
5 almost 10:00. And I'm a little pessimistic that we're going to get through all of this including the
6 ADU language and the ordinance, so, the two options I think are to go through the ADU stuff on
7 section D, it's all ADU stuff, excuse me, the ADU portion here on section D, and then we've kind
8 of finished all the conceptual stuff. And then see if we have any time to jump to the ordinance.
9 So, that's how I was planning, but I'm open to how you want to do it. One of the reasons I
10 wanted to understand the two lines... to collaborate the two lines of questioning is because I
11 think they're pretty different. I'm not saying that either one of them is going to be short, but we
12 really got tangled up in making ADUs more affordable last time and ended up not
13 recommending anything to Council. When it came back to Council, they didn't add anything
14 about that. So, there's no big indication of interest at this point that they want that. So, we may
15 not want to spend time on it. But we still have to spend time on the other part of it. So, listen to
16 what Commissioner Hechtman said and what I was going to do, and I don't have a strong
17 preference. So. Any thoughts? Oh sorry, Commissioner Chang.

18

19 Commissioner Chang: I actually like Commissioner Hechtman's idea just because we've just
20 talked through all of these issues, so if anybody is raising specific wording changes in the code,

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1 it will be fresh on our minds and then we can start a new with this whole new affordable...
2 affordable ADU issue which may or may not be a long discussion, but we could start that a
3 different night. That's my...

4

5 Chair Lauing: Yup, that's fine. Anybody else? Commissioner Reckdahl (crosstalk)

6

7 Commissioner Reckdahl: I agree, yeah.

8

9 Chair Lauing: Commissioner Roohparvar

10

11 Commissioner Roohparvar: Agreed.

12

13 Chair Lauing: Okay. Great, then we're going to shift over to a different page. Where do you
14 want us to work this, Garrett? So page 29?

15

16 Mr. Sauls: Yeah, I mean would you prefer to go back kind of from the top, start at basements,
17 noise producing equipment, kind of go from that list?

18

19 Chair Lauing: I think that was Commissioner Hechtman's idea.

20

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1 Commissioner Hechtman: Much more simple actually, I've provided a list of proposed changes,
2 and the Commissioners have seen them, distributed to the public, and I wasn't wanting to talk
3 about individual ones, much as we've done in other ordinance revision situations, you know,
4 any Commissioner who wants to ask about a particular revision, we have that discussion and of
5 course any Commissioner who has their own suggested revisions, we have that discussion, but
6 the changes that I've suggested nobody has any comment on, then we get to a point where we
7 just move the ordinance revisions as revised (crosstalk) part of discussion kind of thing.

8
9 Chair Lauing: I didn't want to cut short your requested process, that's why I was asking.

10
11 Commissioner Hechtman: Yeah, so that's what I was thinking. And so if you want to start kind
12 of generally with my comments, I would like to mention that after I sent them in, I did have a
13 conversation with Mr. Sauls about them and through that conversation I came to learn that a
14 couple of the revisions that I had suggested were contrary to where staff was trying to take the
15 ordinance so, I wanted to withdraw my suggested change on packet page 31, where I had put in
16 "or proposed" with a question mark, so I want to withdraw that because Mr. Sauls explained to
17 me that it was intentional that we're only talking in this instance in this section of this
18 ordinance about existing primary dwellings. So now that I have that clear I want to take out "or
19 proposed" and that's on Packet page 31. And then similarly on the top of Packet page 34, little
20 (ii) I had suggested adding attached, I had a question about adding attached, just before

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1 ADU/JADU and after talking to Mr. Sauls I realized that would defeat the purpose of the
2 prevision, so I want to withdraw that comment. I do want to mention on that same page, item 4
3 is one of the items we discussed tonight, really, the corner lots. I think this is it, item 4 on
4 Packet page 34 is the corner lots where Assistant Director Tanner, when we were talking about
5 that, Assistant Director Tanner said that staff could consider some additional safeguards, and so
6 I would like, I think that would be useful for staff to do that in their processing of this. And the
7 other one, I wanted to discuss is on Packet page 36, and this is the one we just discussed about
8 shared sanitation facilities. And the concern I had, and I indicated in my markups, is the last
9 sentence... oh sorry, Packet page 36, it's under 18.09050 subpart B, (iii). So, this is the language
10 we just saw, where was it, it's quote on Packet page 24 also, right, in the middle of the staff
11 report, so the concern I had was that... okay, we're constrained by State law to let people share
12 if that's what the owner wants to do. My concern was with the last sentence, that what if it's
13 my house and what I want to do is, I want to build a shower in the JADU, so that they have a
14 private bathing facility, and I want to share, I've got a half bath, you know, just inside the main
15 house, so we'll share that half bath, but I want them to have their own shower. Because I don't
16 want them to come into the house to shower. So, this last sentence doesn't allow that, because
17 it says the sanitation facilities which are shared, shall include a shower, toilet and sink fixture at
18 a minimum. So, I think that the shared facilities at a minimum should be toilet and sink and if
19 we want to share... if I want to have a shared shower, I can do that, but I don't have to. So that
20 was my concern with that language.

-
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Chair Lauing: Can we ask Garrett for input on that?

Commissioner Hechtman: Yeah, thank you.

(crosstalk)

Assistant Director Tanner: We're not provided in the main home... we're not provided in the JADU sanitation facility shall include, because then it would say that if it's in the JADU, then you don't have to have it shared in the main house. Something along those line?

Commissioner Hechtman: Yeah.

Assistant Director Tanner: I see what you're saying, it doesn't necessarily always need to be all those but sometimes it might be.

Commissioner Hechtman: Right. There has to be a shower available to the occupant of the JADU.

Assistant Director Tanner: Right. And so it's like...

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Chair Lauing: Yeah, I didn't read this section as precluding having whatever facilities in the JADU that the landlord wanted, but that we had to have them at least in the building.

Commissioner Hechtman: It's that pesky law degree.

Chair Lauing: I know.

Commissioner Hechtman: It gets me every time.

Commissioner Chang: I just wanted to chime in there and say that I don't think it's an exact replica of the language on page 24, because it's missing the piece that says, unless it's so late that I can't read properly, but it's missing shall be located on the floor level.

Commissioner Hechtman: Oh, good point.

Assistant Director Tanner: I think you're correct.

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1 Commissioner Chang: So it's not, yeah, we just need to duplicate the language from Packet
2 page 24 in B, roman numeral III, on Packet page 36, with the addition of the comment that
3 Commissioner Hechtman made.

4

5 Commissioner Hechtman: Yeah, I agree with that, and I think this kind of dove tails with what
6 Mr. Sauls was saying that fairly late in the process staff was still wrestling with what version of a
7 limitation to put in here. And so, it made it into the staff report but not into the draft
8 ordinance. So, that's a really good catch. So those are the only items that I really wanted to
9 bring out. A number of my comments, a few of my comments, I would put suggested language
10 and put a question mark and that... those were situations where I wasn't necessarily confident
11 that I had picked the perfect word but that I wanted staff to look at it and make a decision and
12 whatever decision they come up with would be fine with me. And there were other places
13 where I just suggested staff maybe look at this and give it some thought and see if you... for
14 example on Packet page 48, down in section four, this language... ADUs... actually it's the
15 second sentence... any impact fee to be charged for an accessory dwelling unit of seven-
16 hundred-fifty feet or more shall be proportional to the square footage of the primary unit. And
17 so, my note was, I'm unclear by what you mean by proportional. I'm not positive about how to
18 do the math, so I had suggested would an example help? And/or are JADUs excluded. So those
19 again are just flags for staff and however they wanted to handle it, I was trusting that they'd

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1 either think it's fine the way it is or fix it the way they thought was appropriate. So those are my
2 comments on comments.

3

4 Chair Lauing: Yeah, I noticed that those were some suggestions in a couple places you put dead
5 for trees as opposed to ... there's actually a word there that's a well-known word that I can't
6 remember at the moment that (crosstalk) Yeah failed. That's what the arborists use all the
7 time. So that's what it is, so that's up to you guys to figure out. Okay, should we...
8 Commissioner Chang did you want to take a turn?

9

10 Commissioner Chang: Yeah, so I just wanted to flag that there are two parking lots issues and
11 they are basements and the noise producing equipment and so we should, I don't know if we
12 want to address them right now tonight, so either, because they're in the parking lot we can
13 either address them next week, when we do the affordable ADU but we should carve them out
14 of the motion for the rest of the ordinance.

15

16 Chair Lauing: Yeah, we sort of did already, so they're still sitting there, that's right.

17

18 Mr. Sauls: My plan for the next hearing was to come back with some refined language based on
19 the conversation that happened tonight so hopefully that might address some of the issues or

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1 some of the concerns that the PTC was raising for the specific things just so that it's not
2 stagnant between tonight and tomorrow... the next time we meet, they'll be some comparison.

3

4 Chair Lauing: Other Commissioners want to comment on the ordinance? I have a few
5 comments, but someone else can go.

6

7 Commissioner Chang: I had a question.

8

9 Chair Lauing: Go ahead.

10

11 Commissioner Chang: Okay, Packet page 36, 18.90.050 A, and it says a JADU shall be new
12 construction attached to a proposed primary dwelling unit. And I'm wondering can it be new
13 attached to an existing primary dwelling?

14

15 Chair Lauing: The second part covers that I think.

16

17 Commissioner Chang: It says... but the second part says that it must be created within the
18 walls. Right. Oh, Oh...

19

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1 Mr. Sauls: We can certainly look at that and clarify that so that it doesn't seem to preclude that,
2 because that's certainly our approach to not preclude a specific kind of JADU construction, it's
3 to allow for a conversion (interrupted)

4

5 Commissioner Chang: Right.

6

7 Mr. Sauls: A conversion, an expansion, construction at the same time...

8

9 Commissioner Chang: Right, it could be either within the existing, it could be a new addition to
10 a new building, it could be new to an existing building, so that is the last one, new to an existing
11 that seems to be precluded. And then, I had a question about Packet page 36, yes, no, 35... right
12 at the very top. And it str... we've removed second story egress window... we removed second
13 story there and I think it's pretty clear that it's removed because B already talks about windows
14 on a second floor but to me, and I ask the attorneys here, it just seems to me it needs to be
15 really clear we should be keeping that second story up at the very top of Page 35. But that's for
16 somebody else to decide, that's just my... I wanted to flag it. And I think that's it for me.

17

18 Chair Lauing: I'll just give a couple of comments. I'm definitely freelancing here, not having one
19 of the pesky JD degrees, but... (interrupted)

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1 Assistant Director Tanner: I'm sorry Commissioner, I just wanted to respond to Commissioner
2 Chang's comment and also make sure I'm capturing it. It's letter C at the top of page 35?

3

4 Commissioner Chang: No.

5

6 Assistant Director Tanner: Is that where you're second story is crossed out?

7

8 Commissioner Chang: No, it's actually it's the latter part of B. So B says, B starting on Packet
9 page 34, says windows on a second floor, blah blah blah blah, and then we strike second story
10 egress windows and I think to be just super clear, it might be a good idea to keep second story
11 there.

12

13 Assistant Director Tanner: Yeah, it looks like perhaps there was some movement from the
14 second story to the second floor although that's not consistent throughout this section so we
15 can take a look at (interrupted)

16

17 Commissioner Chang: So then maybe second floor window.

18

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1 Assistant Director Tanner: To your point emphasizing it.. (crosstalk) where the location is and
2 perhaps (crosstalk) also to make sure it's consistent (crosstalk) with whether it's second
3 (crosstalk) story or second floor.

4

5 Commissioner Chang: Yup, thank you.

6

7 Assistant Director Tanner: Sorry about that Chair.

8

9 Commissioner Hechtman: I think if you put a semi-colon there it solves the problem, because it
10 connects that second sentence to the first sentence which says second floor, loft, or equivalent
11 space.

12

13 Chair Lauing: Okay, this is up to lawyers to write, but I was kind of surprised that right up front,
14 we didn't have definitions of ADU and JADU and accessory buildings which to me would have
15 clarified some of this stuff and if that's not where it's supposed to go, then that's where it's not
16 supposed to go. But that would have been helpful. Just a phrase... there's no change here, but
17 just a phrase that I wanted to understand on [Page] 30, under, right at the beginning under
18 government code section that it provides certain units shall approved notwithstanding State or
19 Local regulations that may otherwise apply. I just didn't understand that to know what was
20 being left in our left out of that sentence. Discusses 1809.030 units exempt from generally

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1 applicable local regulations. And I know there are specifics there, but I was kind of getting the
2 big picture of what that really means.

3

4 Mr. Yang: So, in simplest terms, it means that if you propose an ADU that falls within this
5 section, it must be approved. And there's no other questions asked than you know, does it
6 meet the requirements of this Table One.

7

8 Chair Lauing: Okay. Some of my questions have already been answered. So, we're not going to
9 talk about the 1809.060 right now. I just would reference that phrase that I referenced from
10 memory earlier from Page 10 where you talk about this is complete independent living
11 facilities, it doesn't feel like that to me in the JADUs at the top under item... section 4, item 4.
12 And that's all I had. Any other Commissioners? Commissioner Hechtman.

13

14 Commissioner Hechtman: I'd be willing to try a motion on this but before I do, if Commissioner
15 Chang or somebody will help me identify the portions of the ordinance that we are keeping in
16 the parking lot for now. So I know that it's 18.09.060, which shows up on Packet page 37.

17

18 Vice-Chair Summa:: So the other one is on Packet page 33, 18.09.040 B, no no no no, sorry, it's
19 so... "I" So it's on Packet page 33 (microphone off)

20

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1 Commissioner Hechtman: So it's subpart i?

2

3 Vice-Chair Summa: Yeah, subpart i.

4

5 Commissioner Hechtman: At the bottom, the noise producing equipment section. Right right,
6 okay.

7

8 Commissioner Hechtman: I'm sorry, Mr. Sauls, that subpart i, it's part of 18.09.040? That's, it's a
9 multi-page section of the ordinance.

10

11 Chair Lauing: I had double i.

12

13 Assistant Director Tanner: The noise producing equipment part? Is that what you're looking
14 at?

15

16 Commissioner Hechtman: It's part of section 2, starts on page 29 and it's part of 030, no, 040,
17 right, it's 040 under Table Two. Okay. Got it.

18

19 Mr. Sauls: Yes, it's on Packet Page 33.

20

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1 Chair Lauing: Yeah, I know but it's not consistent in the text, that's what I mean.

2

3 Commissioner Hechtman: Okay. So let me try... (interrupted)

4

5 Chair Lauing: When we looked at it for the purpose of discussion it was under (ii), that's what's
6 confusing. So it's confusing to me. So it's different when it come (interrupted)

7

8 Commissioner Hechtman: Yeah, there were a couple of places in the staff report, where again,
9 this was kind of a moving target for them, with the ordinance, and there was a couple places I
10 noticed where I in the staff report, the subsection didn't match the version of the ordinance we
11 saw. But we were able to find it, and this is one, I think this was referred to as K but it's actually
12 an L. There's another one that's that way.

13

14 Commissioner Chang: This one was referred to as J. And then little roman numeral II. But it
15 looks like in the ordinance it's actually just "I".

16

17 Commissioner Hechtman: It was H, changed to I, right? Under ...

18

19 Commissioner Chang: Yes.

20

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Commissioner Hechtman: Okay.

Commissioner Hechtman: Alright, let me try this. And again, here I think rather than moving through conceptual approval, we want to direct staff at our next meeting to bring us a modified version of the ordinance provisions that reflect the changes that we've discussed tonight. I mean that's the concept that I'm going to try to do here. Rather than try to approve that stuff, because we haven't seen what staff's going to come back with yet.

Chair Lauing: Yeah, but you're still going to bracket the two items that are in the parking lot.

Commissioner Hechtman: Yeah, I'm going to bracket, right, I'm going to exclude those entirely. So, I would expect that when we come back next time, those two sections are going to be exactly as we see them tonight.

Chair Lauing: Unless staff has some ideas between now and then.

Commissioner Chang: Just please redline any differences.

Mr. Sauls: We'll break them out

-
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MOTION

Commissioner Hechtman: Yeah great. Okay. So, I will move that we recommend that staff when they return for our next Planning and Transportation Commission hearing, bring us a revised version of this Packet of ordinance amendments that includes so many of the changes that I have recommended in the packet that I sent earlier in the week as staff feels appropriate and are beneficial, other than the couple that I mentioned I was withdrawing today, and but not, but the motion does not include any changes that I may have made to two sections that are in our parking lot and those are sections 18.09.040 which relates to noise equipment and that is on Packet page 33 and 08.09.060 and that's our affordable ADU program which is on Packet page 37. So we're not proposing at this point staff... I don't know that I ... is there another one to identify?

Commissioner Chang: And the basements

Assistant Director Tanner: Which I think is on page 34 I think.

Commissioner Hechtman: Basements 34, so this is also in 18.09.040, this is, it's actually under the setbacks heading right? Yeah.

-
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Assistant Director Tanner: I believe it's under number two on page, the upper part of that page.

Commissioner Hechtman: Okay, basements appearing on Packet page 34. So, we're not expecting to see staff make revisions to that right now either. So those are three areas of the ordinance code that we're reserving as unchanged for our next meeting. That's maybe the most wordy motion I've ever made.

Mr. Sauls: Don't worry, I got it all.

SECOND

Commissioner Chang: Second.

Chair Lauing: Okay there's a second... I was going to say something Bart but we're on camera, I'll talk to you later. Okay, any other comments? Then let's go to a roll call please.

Commissioner Reckdahl: I did happen to notice one thing here on Packet page 38, they give an example of rounding and the rounding isn't... it says that one two three, it's in the middle of

-
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1 packet page 38, for example, 123.456 shall be rounded to 123.50 and I think it should be
2 123.46. I think that's the intent of it isn't it? You round it to the tenth as opposed to the
3 hundredth. Anyway. That's not substantial but that's a typo I think.

4

5 Chair Lauing: Okay, let's go with a roll call vote please.

6

7 VOTE

8

9 Mr. Nguyen: Commissioner Chang

10

11 Commissioner Chang: Yes

12

13 Mr. Nguyen: Commissioner Hechtman

14

15 Commissioner Hechtman: Yes

16

17 Mr. Nguyen: Chair Lauing

18

19 Chair Lauing: Yes

20

-
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1 Mr. Nguyen: Commissioner Reckdahl

2

3 Commissioner Reckdahl: Yes

4

5 Mr. Nguyen: Commissioner Roohparvar

6

7 Commissioner Roohparvar: Yes

8

9 Mr. Nguyen: Vice-Chair Summa

10

11 Vice-Chair Summa: Yes

12

13 Mr. Nguyen: The motion carries 6-0 with one Commissioner Absent.

14

15 MOTION #7 PASSED 6 (Lauing, Hechtman, Summa, Chang, Reckdahl, Roohparvar) – 0 – 1
16 (Templeton Absent).

17

18

19

20 Chair Lauing: Excellent. Okay, so I would consider a motion for continuance.

21

22 MOTION

-
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Vice-Chair Summa: I'll make a motion to continue this to our next meeting, to the next regular meeting of the Planning and Transportation Commission

Assistant Director Tanner: Which is August 10th.

Chair Lauing: Okay, second please

SECOND

Commissioner Roohparvar: Second.

Chair Lauing: Okay, let's have a roll call on that one please.

VOTE

Mr. Nguyen: Commissioner Chang

Commissioner Chang: Yes

-
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1 Mr. Nguyen: Commissioner Hechtman

2

3 Commissioner Hechtman: Yes

4

5 Mr. Nguyen: Chair Lauing

6

7 Chair Lauing: Yes

8

9 Mr. Nguyen: Commissioner Reckdahl

10

11 Commissioner Reckdahl: Yes

12

13 Mr. Nguyen: Commissioner Roohparvar

14

15 Commissioner Roohparvar: Yes

16

17 Mr. Nguyen: Vice-Chair Summa

18

19 Vice-Chair Summa: Yes

20

-
1. Spokespersons that are representing a group of five or more people who are identified as present at the meeting at the time of the spokesperson's presentation will be allowed up to fifteen (15) minutes at the discretion of the Chair, provided that the non-speaking members agree not to speak individually.
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1 Mr. Nguyen: The motion carries 6-0 with one Commissioner Absent.

2

3 MOTION #8 PASSED 6 (Lauing, Hechtman, Summa, Chang, Reckdahl, Roohparvar) – 0 – 1
4 (Templeton Absent).

5

6 **Commission Action**: Motion by Chang, seconded by Lauing. Motion Passed 5-0.

7 **Commission Action**: Motion by Hechtman, seconded by Roohparvar. Motion tied 3-3.

8 **Commission Action**: Motion by Lauing, seconded by Chang. Motion Passed 6-0.

9 **Commission Action**: Motion by Chang, seconded by Summa. Motion Passed 6-0.

10 **Commission Action**: Motion by Summa, seconded by Chang. Motion Passed 6-0.

11 **Commission Action**: Motion by Summa, seconded by Chang. Motion Passed 6-0.

12 **Commission Action**: Motion by Hechtman, seconded by Chang. Motion tied 6-0.

13 **Commission Action**: Motion by Summa, seconded by Roohparvar. Motion Passed 6-0.

14

15

16 **Committee Items**

17 None

18

19 **Commissioner Questions, Comments or Announcements**

20

21 Chair Lauing: Very good. Okay there are not minutes attached to approve, so we have the

22 schedule going forward, which obviously includes what we just continued and then a couple

23 things coming up that are in your packet, so we don't have to go over those. You heard me

-
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1 mention that we want Transportation to come back to us with the quote unquote dangerous
2 intersections, and they've agreed to work on that. Any thing else on agendas or anything?

3

4 Assistant Director Tanner: No, I think as I mentioned we'll make sure we keep the liaison
5 abreast of what's coming up at the City Council, they'll be resuming on August 1st, we will have
6 a map, we should have a map of the schedule remains the same will be there and we'll keep
7 you posted on any other items that are coming up to Council in August, but they should be busy
8 when they get back.

9

10 Chair Lauing: Okay, any other comments or announcements or committee meetings?
11 Commissioner Hechtman.

12

13 Commissioner Hechtman: Thank you. So given that we have continued this... item three to
14 August 10th, I think tonight was another example of how invaluable our Assistant Director has
15 been to us, and I was wondering if Mr. Yang could tell us if under any of our procedural rules
16 she has to stay to finish the item on August 10th.

17

18 Chair Lauing: I think that's a heck of a good point.

19

-
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1 Commissioner Hechtman: So, I'm pretty sure I know the answer but I'm looking to you for your
2 best creativity here Mr. Yang.

3

4 Chair Lauing: Mr. Yang, it's all up to you dude.

5

6 Mr. Yang: No, I'll see what I can find.

7

8 Commissioner Hechtman: Alright. Thank you again for really making the job we have up here
9 so much easier. And I know you have a lot of staff support, but you are the top of the pyramid
10 that we see generally, and it's been a great experience to work with you.

11

12 Assistant Director Tanner: Thank you very much.

13

14 Chair Lauing: So, I would like to adjourn in Assistant Director Tanner's honor.

15

16 Assistant Director Tanner: Thank you very much. I appreciate that.

17

18 Chair Lauing: See you in the City. Good night.

19

-
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1 **Adjournment**

2 10:25:00 pm

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