



City of Palo Alto

City Council Staff Report

(ID # 9460)

Report Type: Action Items

Meeting Date: 12/3/2018

Summary Title: Downtown Cap: Repeal of PAMC Chapter 18.18.040

Title: PUBLIC HEARING. Adoption of an Ordinance Amending Chapter 18.18 (Downtown Commercial District) of Title 18 (Zoning) of the Palo Alto Municipal Code (PAMC) to Repeal Section 18.18.040 Regarding a Nonresidential Square Footage Cap in the CD Downtown Commercial Zoning District to Implement and Conform to the Updated Comprehensive Plan; Section 18.18.040 Implemented Policy L-8 of the Prior 1998 Comprehensive Plan, Which was Removed as Part of the Adoption of the Comprehensive Plan Update. California Environmental Quality Act (CEQA), This Ordinance is Within the Scope of the Comprehensive Plan Environmental Impact Report (EIR) Certified and Adopted on November 13, 2017 by Council Resolution No. 9720

From: City Manager

Lead Department: Planning and Community Environment

Recommendation

Staff recommends that the City Council take the following actions:

1. Find the Ordinance within the scope of the Comprehensive Plan Environmental Impact Report (EIR) certified and adopted on November 13, 2017 by Council Resolution No. 9720; and,
2. Adopt an ordinance implementing City Council direction from January 30, 2017 to repeal Palo Alto Municipal Code (PAMC) section 18.18.040 regarding a nonresidential floor area restriction in the CD Downtown Commercial Zoning District.

Background

Palo Alto Municipal Code (PAMC) section 18.18.040 implements Land Use Program L-8 from the 1998 Comprehensive Plan. This program and code section establish a development ceiling that prevents more than 350,000 square feet of non-residential floor area from being developed in

the City's downtown commercial district. The program directed that the City re-evaluate the limit once new non-residential development approvals reached 235,000 square feet of floor area. City staff and consultants commenced this re-evaluation after that intermediate threshold was reached, during the City's Comprehensive Plan update process.

On January 30, 2017, as part of its consideration of the Comprehensive Plan update, the City Council directed the removal of the downtown-specific non-residential floor area limit in Land Use Program L-8 in favor of a new policy objective¹. The new policy would limit office and research and development ("office/R&D") floor area on a citywide basis, capping new development at 1.7 million square feet. In November 2017, the Council adopted that new policy with the Council's final approval of the updated Comprehensive Plan. In summer 2018, Council amended the Comprehensive Plan to reduce the citywide office/R&D cap by half to 850,000 square feet following the certification of a citizen's initiative to affect this change.

In addition to the citywide office/R&D limit, the City Council in May 2018 adopted a zoning code amendment replacing interim regulations and establishing a 50,000 square foot annual limit on new office space that applies to downtown, California Avenue Area and El Camino Real on an ongoing basis.

Following prior Council direction, staff initiated a text amendment to repeal PAMC section 18.18.040 last summer. The Planning and Transportation Commission (PTC) considered this ordinance and recommended (4-0-1) that the Council reject it. The PTC expressed concerns about the then-pending citizen's initiative and the perceived inconsistency of removing the downtown non-residential floor area restriction with the City's expressed interest in encouraging more housing development. The contemplated conversion of residential units at the President Hotel was cited as an example of how allowing commercial development could be contrary to other City efforts to encourage the retention and production of housing units. Over 20 speakers expressed concern about the ordinance at the PTC meeting. More on the Commission meeting and verbatim minutes are provided in Attachment C.

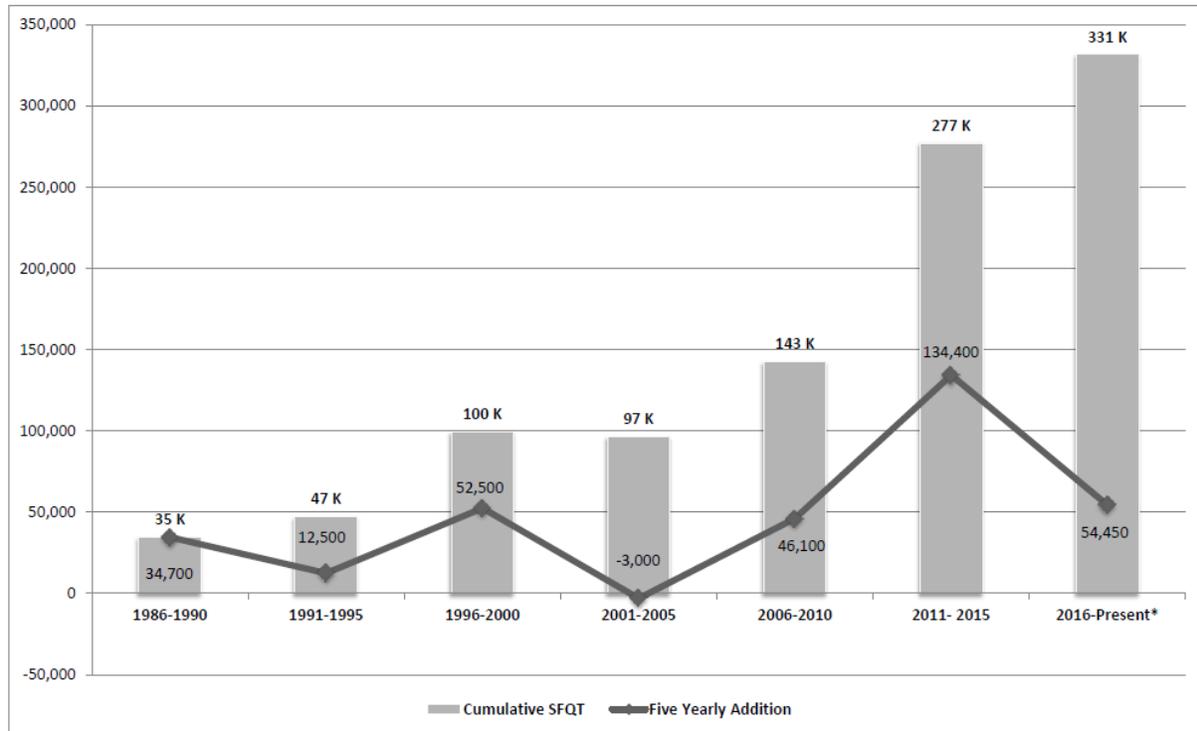
Discussion

The subject ordinance seeks to implement what staff understood to be the Council's direction on January 30, 2017 to eliminate a downtown-specific cap on non-residential development and instead rely upon the citywide office/R&D floor area limit and the 50,000 square foot annual limit in three areas (downtown, along El Camino Real and near California Avenue). The preferred scenario as described in the Comprehensive Plan Final EIR also included the same provisions – the citywide cumulative office/R&D cap of 1.7 million square feet, an assumed annual office/R&D limit to control the pace of growth, and the elimination of the separate cap

¹ Action minutes from the City Council meeting are available online:
<https://www.cityofpaloalto.org/civicax/filebank/documents/56153>

that applies to Downtown. In reviewing the administrative record of the Comprehensive Plan update, staff was unable to find any contrary discussion that would support the view that the Council expected or contemplated that non-residential development downtown would be limited to the remaining floor area that exists under the downtown cap, which today is approximately 19,000 square feet.

Downtown Non-Residential SQFT Added (1986 to Present)



Source : City of Palo Alto Planning Department, Accela Data, October 31, 2018

* Includes Entitled and Pending Projects

If the Council intends to retain the downtown cap, staff would need to conduct additional environmental analysis to evaluate how this change in policy direction impacts the land use assumptions and conclusions in the final environmental impact report prepared for the Comprehensive Plan update.

Additionally, it is recommended that, if Council does not adopt the proposed ordinance repealing PAMC section 18.18.040 in its entirety, that the Council approve amending Section 18.18.040 to ensure the retention of the downtown development standards in PAMC Chapter 18.18 (Downtown Commercial (CD) District). Section 18.18.040 currently states that Chapter 18.18 as whole, including all of the downtown land use and development regulations, would be repealed once the City reaches 350,000 square feet of non-residential floor area from the 1986 base year.

Attachment A provides a copy of the proposed ordinance that would repeal PAMC section 18.18.040. Attachment B includes the prior and current Comprehensive Plan programs and additional background information.

Timeline

If the Council approves the proposed ordinance, a second reading of the ordinance would be scheduled as a consent calendar item for final adoption. Thirty days after the second reading, PAMC section 18.18.040 would be removed from the Municipal Code.

Environmental Review

The proposed Ordinance is within the scope of and in furtherance of the Comprehensive Plan 2030 which was evaluated in the Comprehensive Plan Final Environmental Impact Report (Final EIR) certified and for which findings were adopted by Council Resolution Nos. 9720 and 9721 on November 13, 2017, in accordance with the California Environmental Quality Act (CEQA). Pursuant to Section 15168 of the State CEQA Guidelines, the City has determined that no new effects would occur from and no new mitigation measures would be required for the adoption of this Ordinance.

Attachments:

Attachment A: Draft Ordinance Chapter 18.18 (Downtown CD) to Repeal Downtown Development Cap (PDF)

Attachment B: Comp Plan Policies (PDF)

Attachment C: PTC Minutes (PDF)

**** NOT YET ADOPTED ****

DRAFT

Ordinance No. _____

Ordinance of the Council of the City of Palo Alto Amending Chapter 18.18 (Downtown Commercial District) of Title 18 (Zoning) of the Palo Alto Municipal Code (PAMC) to Repeal Section 18.18.040 Relating to a Nonresidential Square Footage Cap in the CD Downtown Commercial Zoning District to Implement and Conform to the Updated Comprehensive Plan 2030

The Council of the City of Palo Alto ORDAINS as follows:

SECTION 1. Findings and Declarations. The City Council finds and declares as follows:

A. The 1998 Comprehensive Plan for the City of Palo Alto included a program, Land Use Program L-8, to limit new nonresidential development in the Downtown area to 350,000 square feet or 10 percent above the amount of development existing or approved as of May 1986 (the “Downtown cap”), and to re-evaluate this limit when nonresidential development reached 235,000 square feet. This program perpetuated the already existing Downtown cap adopted in 1986 by Ordinance No. 3696 which had amended the Zoning Code to add a new chapter codifying the Downtown cap.

B. Beginning in 2013, when Downtown nonresidential development was approaching 235,000 square feet, the City re-evaluated the Downtown cap, studying land use and traffic conditions and impacts, at the same time that the Comprehensive Plan update process was underway.

C. As part of Council’s process for adoption of the updated Comprehensive Plan in 2017, the Council determined to maintain a cumulative citywide cap on nonresidential development of 1.7 million square feet and apply it to office/R&D development only with certain exemptions, to continue on an ongoing basis the annual limit on office/R&D development by a separate ordinance, and to eliminate the 350,000 square foot cap on nonresidential development in the Downtown in then-existing Program L-8 and focus on monitoring development and parking demand. Accordingly, former Program L-8 is not included in the Comprehensive Plan 2030 as adopted by the Council on November 13, 2017.

D. This Ordinance, which would remove the Downtown cap from the Zoning Code, implements and is in furtherance of the updated Comprehensive Plan 2030.

SECTION 2. Section 18.18.040 (Repeal of Regulations) of **Chapter 18.18 (Downtown Commercial (CD) District)** of Title 18 (Zoning) is repealed in its entirety.

~~**18.18.040 – Repeal of Regulations**~~

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~~The department of planning and community environment shall monitor the number of square feet approved for nonresidential development in the CD district and the number of square feet approved for nonresidential development pursuant to a planned community (PC) zone if the site of the PC zone was within the CD district on the effective date of this chapter. When 350,000 square feet of nonresidential development have received final design review approval pursuant to Chapter 18.76 or have received building permits, if no design approval is required, this chapter shall be repealed and a moratorium shall be imposed. This moratorium shall prohibit the city's acceptance or processing of any application for planning approval or a building permit for new nonresidential square footage in the CD district. This moratorium shall remain in effect for one year while the city undertakes a study of what regulations would be appropriate in the CD district. The moratorium may be extended by the council until such study is completed and appropriate regulations are implemented.~~

SECTION 3. Any provision of the Palo Alto Municipal Code or appendices thereto inconsistent with the provisions of this Ordinance, to the extent of such inconsistencies and no further, is hereby repealed or modified to that extent necessary to effect the provisions of this Ordinance.

SECTION 4. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the Ordinance would be subsequently declared invalid or unconstitutional.

SECTION 5. The Council finds that the Ordinance is within the scope of and in furtherance of the Comprehensive Plan 2030 which was evaluated in that certain Final Environmental Impact Report ("Final EIR") certified and for which findings were adopted by Council Resolution Nos. 9720 and 9721 on November 13, 2017, all in accordance with the California Environmental Quality Act ("CEQA"). Pursuant to Section 15168 of the State CEQA Guidelines, the City has determined that no new effects would occur from and no new mitigation measures would be required for the adoption of this Ordinance.

SECTION 6. This Ordinance shall be effective on the thirty-first date after the date of its adoption.

INTRODUCED:

PASSED:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

NOT PARTICIPATING:

ATTEST:

City Clerk

Mayor

APPROVED AS TO FORM:

APPROVED:

Assistant City Attorney

City Manager

Director of Planning & Community
Environment

Attachment B
Comprehensive Plan Policies and Additional Background Information

1998 Comprehensive Plan Program L-8:

Limit new non-residential development in the Downtown area to 350,000 square feet, or 10% above the amount of development existing or approved as of May 1986. Reevaluate this limit when non-residential development approvals reach 235,000 square feet of floor area.

Current Comprehensive Plan Policy L1.10:

Cap new square feet of office/R&D development citywide at 850,000 square feet, exempting medical office uses in the Stanford University Medical Center (SUMC) vicinity. Use January 1, 2015 as the baseline and monitor development towards the cap on an annual basis. Continue to exempt medical, governmental and institutional uses from the cap on office/R&D development.

Note:

PAMC Chapter 18.18.040 codified a maximum growth of 350,000 square feet and stipulated that the CD development cap was to be re-evaluated when net new non-residential development reached 235,000 square feet. A moratorium would come into effect as soon as 350,000 square feet of new non-residential development receives either planning entitlements or building permits. As required by the Comprehensive Plan and Zoning Code, City staff has monitored and prepared annual reports to the City Council regarding development activity, vacancy rates and commercial lease rates in order to evaluate the effectiveness of these regulations. As of October 30, 2018, the new non-residential development downtown, including approved and pipeline projects, has not been exceeded. Approximately 330,792 square feet has been entitled or is in the pipeline and approximately 19,208 square feet remains.

Consistent with PAMC section 18.18.040, the City initiated a study in 2013 to re-evaluate the downtown cap for land use and traffic conditions and other impacts, when the total amount of new nonresidential square footage approached 235,000. The City Council awarded a contract in October 2013 for Downtown Development Cap Study to Dyett and Bhatia Urban and Regional Planners. This analysis was proposed to be completed in two phases. Phase I focused on data collection and projection analysis, while Phase II was to be the policy analysis phase. Phase I was completed and the associated studies were submitted to both the PTC and City Council for review. The studies included existing trends and conditions, downtown development cap evaluations and a downtown business survey. Phase II was stayed given Council direction on January 30, 2017 to end the Downtown non-residential floor area limitation.

Attachment C PTC Summary and Transcript

Planning & Transportation Commission Meeting

The PTC held a public hearing on this item on July 25, 2018¹. There were 21 members of the public who spoke on this proposed zoning code amendment. The majority of speakers voted in favor of retaining the existing downtown commercial cap. While many of the speakers supported retention of the downtown cap due to concerns about traffic and potential conversion of residential square footage to nonresidential uses, some were directly the result of the proposed conversion of the President Hotel residences to a hotel use. Some speakers also asked that this issue be studied further in light of recent policy direction, the pending citizen initiative on the citywide office/R&D growth cap, and so that the impact, including the environmental impact, could be clearly understood. There were also a number of speakers who requested that the focus be placed on providing more renter protection instead.

Following the public speakers, the PTC held a detailed discussion which also echoed much of what was raised by the public. While a commissioner noted that there was some concern that the retention of PAMC Chapter 18.18.040 would conflict with the January 30, 2017 Council motion to remove the downtown cap from the Comp Plan, it was also acknowledged that the downtown cap and the overall citywide cap are different because one restricts all commercial downtown only, while the citywide cap restricts only office and R&D uses.

The PTC stated that action on the subject ordinance appeared to be premature for several reasons. One of the biggest reasons was the upcoming (at the time) citizen initiative to reduce the overall City wide cap. The perception was that the removal of the downtown commercial square footage cap would be inconsistent with the citizen initiative to reduce in the allowable office and R&D square footage city wide. The reduction was approved by Council five days after this PTC hearing, preempting the placement of the measure on the November ballot.

Another reason was that the removal of the restriction on commercial square footage was seen to contradict the more recent policy support for housing, including the zoning code amendments being considered to implement the Comp Plan policies to increase housing production (Housing Work Plan). The PTC expressed that the removal of the restriction on commercial square footage would encourage more commercial development instead of housing. There was specific concern that the removal of the downtown commercial cap would encourage conversion of residential units to commercial uses. The proposed conversion of the President Hotel from residential units to a hotel was held as one significant example. The PTC was concerned that the motion to remove the downtown cap, made in January 2017, did not reflect more current policy direction and Council positions and that more time should be spent to evaluate the more recent discussions before taking any action on the subject code section. At the conclusion of the public hearing, the PTC adopted a motion that recommended that City Council reject staff's proposal to repeal PAMC Chapter 18.18.040.

¹ [PTC Hearing July 25, 2018 Staff Report](#) and [Minutes](#)

PTC Minutes from July 25, 2018 (Excerpt)

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Action Items

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

- 2. Public Hearing: Recommend that the City Council Adopt an Ordinance Amending Chapter 18.18 (Downtown Commercial District) of Title 18 (Zoning) of the Palo Alto Municipal Code to Repeal Section 18.18.040 Regarding a Nonresidential Square Footage Cap in the CD Downtown Commercial Zoning District to Implement and Conform to the Updated Comprehensive Plan. CEQA: Comprehensive Plan Environmental Impact Report (EIR), Council Resolution No. 9720

Commission Action: Motion made by Commissioner Waldfogel to Recommend Council reject staff's proposed ordinance, motion seconded by Chair Lauing (friendly amendment by Summa). Motion passed 4-0-1 (Waldfogel, Monk, Lauing, Summa. Alcheck abstained, Gardias and Riggs absent)

Chair Lauing: So as stated the next item on the agenda is Item Number 2 as printed here and that's a recommendation on an ordinance amending Chapter 18. And I believe we're going to have a Staff presentation on that as well from (interrupted)

Ms. French, Chief Planning Official: Yes, hello again. I'll introduce Elena Lee who is going to be presenting the PowerPoint she prepared.

Ms. Elena Lee: Thank you Chair and Members of the Commission. So tonight, the proposed repeal of Palo Alto Municipal Code Chapter 18.18.40 is a direct outcome of the Comp. Plan update and per specific Council motion at the January 30th, 2017 Council hearing on the Land Use Element.

- 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.
- 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

2 So PAMC 18.18.40 provides the following should certain thresholds be met. First of all, this
3 code chapter involves all non-residential floor area. That would be office, retail-like, not just
4 office and R&D. So, at 350,000-square feet of non-residential development and as of now we
5 have about 25,000-square feet left. Chapter 18. 18 would be repealed and a 1-year moratorium
6 accepting and processing applications in the CD District and the City would study new CD
7 District regulations.

8

9 So, at the January 30th, 2017 City Council hearing on the Land Use... the draft Land Use Element
10 the Council directed that the final Comp. Plan policy be focused on office and R&D uses, that it
11 be applied (interrupted)

12

13 Chair Lauing: Yeah, just go a little bit slower for us.

14

15 Ms. Lee: Sure, sorry about that.

16

17 Chair Lauing: Thanks.

18

19 Ms. Lee: Ok so at the January 30th, 2017 hearing the final draft... the City Council actually
20 directed that the final draft Comp. Plan includes a revised policy that focused the cap on all

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1 office and R&D uses only. It would apply City-wide rather than the 9 monitor subareas and it
2 would also require annual monitoring to assess the effectiveness of the development
3 requirements and to determine whether the cap and development requirement should be
4 adjusted. In addition, the Council also directed Staff to make permanent an Annual Office Limit
5 Ordinance of up to 50,000-square feet per year for office and R&D uses only separate from the
6 Comp. Plan update in the downtown, Cal. Ave, and El Camino Real area. Thirdly the Council
7 directed Staff to eliminate the Downtown Cap found in existing Program L-8 and to focus it on
8 monitoring and development and parking demands.

9
10 So, the previous policy and program are shown here on this slide and in this... under Policy L-8,
11 that second item, it shows that the Comp. Plan stipulated that we have them limit of 3.2
12 million-square-feet of new non-residential development in the 9 planning areas as evaluated in
13 the 1989 Citywide Land Use and Transportation Study. And so that would be focused on 9
14 planning areas that include downtown, Cal. Ave, Research Park, amongst other areas. The
15 associated program specific to downtown said that new non-residential development, again
16 this includes retail as well, in downtown would be limited to 350,000-square feet or 10 percent
17 above the amount of development existing or approved as of a May 1986 study. And then this
18 limit would be reevaluated when the non-residential development approvals reached 235,000-
19 square feet which happened around 2012.

20

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1 So after... through the Comp. Plan update consistent with the January 30th direction the City
2 adopted... City Council adopted new Policy L1.10 which states... said that we should have a City-
3 wide cap of 1.7 million-square-feet. That would be the remaining from the 3.2 million that was
4 identified earlier and that would be for office and R&D development only. Exempting medical
5 uses such as SUMC and then that we would use a January 1st, 2015 as a baseline. In addition,
6 we would monitor development towards a cap on an annual basis and require the monitoring
7 to determine the effectiveness as well as looking at specific measurements to make sure that
8 we are complying with the policies. And note again that this cap applies only to office R&D so
9 the cap would apply for example if someone converted an office use or sorry, convert a retail
10 use into an office use. Previously under the old Comp. Plan as well as 18.18... Chapter 18
11 currently, if somebody converted retail to office space that wouldn't count against the cap. So
12 that is a difference between the two so that would definitely capture any potential retail uses
13 that would want to convert to office space. So, the associated Program L10.1 stated that we
14 should reevaluate the cumulative cap when the amount of a new development reaches 67
15 percent or 1.139 [note- 1,139,000 slide]. And then concurrently we would consider removing or
16 other potential changes to the cap.

17

18 So, concerns have been raised by the members of the public that this repeal... proposed repeal
19 is inconsistent with the recent direction. This ordinance would bring the Zoning Code into
20 consistency with the recently adopted Comp. Plan. The Comp. Plan also includes provisions for

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1 regular evaluation of the cap and a program for the coordinated area plan for downtown. Other
2 policies and programs were also adopted with the Comp. Plan that provides the City with great
3 tools to address development. Including new TDM requirements with required reductions in
4 ranging from 45 percent reduction downtown as well as up to 20 percent else ware in addition
5 to the update to the Transportation Impact Fee.

6
7 So, in summary, Staff recommends a repeal of Chapter 18.18.40 because its consistent with the
8 Comp. Plan update as well as the January 30th motion from City Council. So, the PTC may
9 recommend for or against this ordinance or may continue the hearing to a date certain or
10 uncertain. If the PTC recommends Council adoption or recommends against or against the
11 ordinance, Staff will forward a draft ordinance to the City Council for their review and action.
12 However, if the PT [note-PTC] continues... chooses to continue this item to a date certain or
13 uncertain we would return with this item later that... at that time. This concludes Staff's report.

14

15 Chair Lauing: Amy did you have anything to add? No?

16

17 Ms. French: Not at this time.

18

19 Chair Lauing: Ok.

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1 Ms. French: I'm here for questions.

2

3 Chair Lauing: I think if we want to... if there are any prudent preliminary question from the
4 Commission to Staff we could do that and then we want to go to public comment. Any
5 questions? No? Ok. Commissioner Summa.

6

7 Commissioner Summa: Thank you. Thank you for the report and thank you for everyone in the
8 public for coming out tonight. I have a couple questions and I know that as of January 2017 the
9 cap I believe... the square footage, the commercial count was at 317,000. And I have a question
10 because there's some confusion in the Municipal Code. It says that it's supposed to capture...
11 count square feet and I think that... and so I'm wondering if you have been calculating that
12 number counting square feet or FAR because in not all cases are they the same?

13

14 Ms. French: So square footage is known as Gross Floor Area. The Floor Area Ratio is when that
15 Gross Floor Area is divided by the lot area so when we talk about square footage that's kind of
16 interchangeable with Gross Floor Area or/and square footage.

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18 Commissioner Summa: But we wouldn't be counting footage that is exempted from being
19 counted.

20

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1 Ms. French: So yeah in the Stanford University Hospital area, that medical office is not counted
2 into the cap.

3
4 Commissioner Summa: Oh, sorry I wasn't clear. I mean square feet that exists in a given
5 building but don't count against the FAR and I'm wondering if there was any idea how much of
6 that there might be that maybe should be included in the number? I have a couple questions
7 about the count.

8
9 Ms. French: I don't really have an answer for that. I'm not prepared for that question.

10
11 Commissioner Summa: Ok.

12
13 Ms. Lee: So actually, if I may? So, I think there are multiple items that we are evaluating for that
14 we monitor on an early basis. So, for... so I think the... for Program L-8 there was a specific way
15 we count versus for example the Annual Office Limit. So, in this case, we are compliant with the
16 limitation within Program L-8 and we are counting all the square footage that would be
17 applicable for this particular but we can certainly come back with more detail if you need it.

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1 Commissioner Summa: Ok I was just curious and then do you know where we are now because
2 I'm sure there's been some commercial development downtown since January of 2017 and we
3 didn't have that number in our report?

4

5 Ms. Lee: Actually, I do have that number. I've been having some technical problems.

6

7 Commissioner Summa: You can let me know later... you can let us know later when you find it.
8 And then this is a small thing but I notice that a lot of buildings downtown have converted
9 basement which was typically used as storage or warehouse to office and I'm... I have no idea
10 how many. I know it's come up before at Council and maybe even from me actually. Do we
11 have any idea if that's included in the square footage? The downtown non-commercial... non-
12 residential?

13

14 Ms. French: So, I believe this is the case if it had been counted towards the parking assessment
15 roles. In other words, some basement area has... have been used for offices etc. and if that area
16 was counted towards the parking assessment district as existing then it would have been
17 included in the existing floor area in town.

18

19 Commissioner Summa: Ok. Ok, thank you that's if for now.

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1 Chair Lauing: Commissioner [note- Vice-Chair] Monk.

2

3 Vice-Chair Monk: To follow up on Commissioner Summa's question regarding count, if
4 hypothetically Staff... I guess my first question... preliminary question is given the fact that
5 we've heard from a lot of concerned residents over the President Hotel. Has that space already
6 been accounted for in the Square Footage Cap?

7

8 Ms. Lee: It... no, it counts as... it... except for the ground floor. The ground floor is retail and the
9 above floors are residential so the residential units would not count against the cap.

10

11 Vice-Chair Monk: I see so if hypothetically there was a conversion, that then would trigger
12 application towards... with the cap? With the rules for governing cap, correct?

13

14 Ms. French: If we received an application for modification to that building that you're bringing
15 up, that hotel building, the President Hotel, then it would be looked at as far as that goes. You
16 know we have a maximum of 25,000 left I believe in the Downtown Cap so if they were to come
17 forward, grandfathers' facility aside, then there would be an issue with the amount of
18 remaining cap area.

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1 Vice-Chair Monk: Ok and then on that same hypothetical, if we were to remove the cap then
2 we're looking at the City-wide cap and the 50,000-square foot cap. Where would that building
3 fit? Would it still be precluded from a conversion based on the square footage or is it...
4 wouldn't it exceed the 50,000-square foot limitation that we currently have in any event?

5
6 Ms. French: Yeah that's a... the 50,000 Annual Cap is related to office, not all commercial. The
7 Downtown Cap that is in this code that we're talking about tonight is related to call commercial,
8 not just office and R&D. Whereas the 50,000 Annual Cap Citywide or in those areas is related to
9 office R&D.

10
11 Ms. Lee: And also, the 1.7 million that is in the new Comp. Plan would also be office and R&D.
12 So, if the hotel was converted to an office R&D use that would be counted towards the annual
13 limit. Of course, if the previous Comp. Plan was still adopted... is still... was still effective then a
14 conversion from if say for example the hotel existed and it was already hotel. It could convert to
15 any non-residential use and it would not count against any cap.

16
17 Vice-Chair Monk: I'm sorry could you just repeat that?

18
19 Ms. Lee: So basically, under the old Comp. Plan the cap was for all non-residential uses. So, you
20 could go from commercial... you could go from retail to office and there's no cap. And there's

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1 no problem with a cap versus the new policy which states that there's a cap on office R&D uses
2 only. So, if you have an existing retail use and you converted it to office then the Office Cap
3 would apply.

4

5 Vice-Chair Monk: Ok and in regards to that removal of the Policy L-8, was that recommended
6 by the Citizens Advisory Committee?

7

8 Ms. French: I believe it was.

9

10 Ms. Lee: Actually, so the way the Comp. Plan CAC process worked was that there were multiple
11 policy recommendations made by the CAC so that was one of the options. They didn't have a
12 strict recommendation by the whole CAC for Land Use policies... for... specifically for the
13 Growth Management Policies.

14

15 Vice-Chair Monk: Ok and then does our vote tonight on updating the code with this new
16 ordinance whether we vote year or no on it, how will that impact this... Hotel President?

17

18 Ms. French: The Hotel President is related to the existing code, not this code per say. The
19 Grandfathered Facilities Code that says if there's a grandfather's facility that is non-complying
20 in the downtown CD then that it can continue with its existing conforming use. Which it is a

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1 conforming use, mixed-use, you know housing and retail but yeah so that's what that code is
2 about. That's the code that the City has alerted the new owners that this is in effect and
3 applicable to that property.

4
5 Vice-Chair Monk: So, you're referring to the code I think it's 18.18.120 which handles the
6 grandfathers which is not before us tonight.

7
8 Ms. French: Correct.

9
10 Vice-Chair Monk: And what is before us tonight whether we vote yes or no or modify it in any
11 way will have absolutely no barring or impact on existing residential use in the downtown?

12
13 Ms. French: It has an impact on if their conversion where allowable to one of the commercial
14 uses and we were going past 25,000 which is what's left then it would have an impact. There
15 may be other properties that are interested in adding square footage beyond 25,000 and so this
16 code section doesn't allow those projects to go beyond 25,000. You know office, retail, any
17 commercial.

18
19 Vice-Chair Monk: So, the new owner technically if this date on the books could bifurcate and
20 convert up to 25,000 K or whatever we have left on under this cap?

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Ms. French: If somebody wanted to come forward and it wasn't a grandfather's facility and they wanted to convert then yes, they would be subject to a cap.

Vice-Chair Monk: This current cap that we're looking at tonight?

Ms. French: This current cap, yes. If the cap was removed then an existing facility that was not a grandfathered facility could... you know as long as it's allowed by zoning could convert but then that would go towards the 25,000.

Vice-Chair Monk: But this current property that we have the community out and discussing tonight, although it's not related to this specifically, that property does not fall within that zoning that you're referring too?

Mr. Albert Yang, Senior Deputy Attorney: So that property is a non-conforming facility and so there is an entirely separate section of the code that applies and restricts its uses.

Vice-Chair Monk: Ok and I just want to confirm that any action we take tonight, I would like to know what our actions tonight will impact or not impact to and to what extent with existing properties downtown so that's where my questions are coming from. Thank you.

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Chair Lauing: Do you... yeah, I want to get some comments from the public. I've got quite a few cards. I'm sorry, Commissioner Alcheck.

Commissioner Alcheck: Ok I just want to ask you a quick question sort of following up on what Commissioner [note- Vice-Chair] Monk (interrupted)

[note-female:] [off mic-speaking from the audience] We can't hear you.

[note- several audience members started talking at once]

Commissioner Alcheck: Don't worry, I'm getting there. Warming up. Let me follow up on what you just said to Commissioner [note- Vice-Chair] Monk. You have a recently enacted Comprehensive Plan which replaces the Comprehensive Plan that supports Chapter 18.18.040. And you have recent Council direction in the form of a directive that suggests enact a 50,000-annual limit, that's changed a little bit over the course of the year and delete this downtown specific cap. Are you suggesting that a parcel owner that came forward with a project that exceeded 25,000 which is what we presumably have left would somehow be denied? And I ask that question because when I put my land use attorney cap on it suggests that you'd have two conflicting code directions and I would assume based on my experience that a court of law, if it

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1 got litigated, would rely on the more recent code language and the even more recent Council
2 direction to eliminate the conflict. So, I'm asking if for example we recommended not changing
3 this code section or deleting it and Council agreed with that decision would this not be
4 indefensible? Wouldn't you be stuck because we've just essentially created an annual limit of
5 50,000 that contemplates double what a much older 30-year old law allows? I see a problem
6 here and I need to understand how you think it at least from a legal perspective.

7

8 Ms. Yang: So that's something that we would look at if and when that situation arose but Staff's
9 recommendation tonight is that PTC recommends adoption of this ordinance which would
10 remove the cap and that potential conflict that you described.

11

12 Commissioner Alcheck: So, it's... ok. I guess what I'm... I can fully appreciate the legal
13 department's desire not to openly discuss a legal vulnerability. That's fine, I won't push you to
14 do that but I'm going to assume that your recommendation that we delete this is an effort to
15 eliminate a conflict that might be indefensible unless you tell me that it's not. I'm not... again I
16 can fully appreciate you're desire not to get into it because people are listening but I... it sounds
17 to me like the legal department's hands would be tied with this 25,000 remainder with all of the
18 action Council has taken and the new Comprehensive Plan.

19

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1 Ms. Yang: Again, I think that's something that we would look at if and when it came up. I would
2 note that the 50,000-square foot cap that you mention does apply not only to the downtown
3 but also to a few other areas in the City. So, in that sense, there is not a head-on conflict
4 (interrupted)

5

6 Commissioner Alcheck: Right.

7

8 Mr. Yang: Between the two policies.

9

10 Commissioner Alcheck: Right, ok, that's sort of the extent of my questions for Staff.

11

12 Chair Lauing: Commissioner Summa

13

14 Commissioner Summa: Thank you. Just one more and I thought maybe what Commissioner
15 [note-Vice-Chair] Monk was trying to get at and forgive me if this wasn't what you were trying
16 to get at. Are there other residential buildings existing in the CD district that if we eliminate the
17 cap will be vulnerable to be converting to commercial uses? I'm not... I can think of one maybe
18 but do we have any idea of how many of those there are?

19

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1 Ms. French: I mean there's a number of mixed-use buildings, larger buildings downtown that
2 contains residential that are in the CD Zone. So, I mean I can't think of any that use to be a hotel
3 I mean if that's what you're (interrupted)

4
5 Commissioner Summa: No, I'm not... that's not relevant to my question actually. It's just do we
6 have an idea... if we eliminate... take the... recommend eliminating the Downtown Cap L-8, I
7 mean not... 18.18.0... whatever it is but if we do that are there... do we have any idea how many
8 other residential units or residential buildings there are in the CD Zone that could be converted
9 to a more lucrative purpose which is office commercial?

10
11 Ms. French: I mean for one thing the existing Zoning Code for CD has a limitation on the square
12 footage so for instance if you had a mixed-use building that had 1 to 1 FAR for... Floor Area
13 Ratio for commercial and somehow 2 to 1 for... existing for residential. Could they convert and
14 have it all be 3 to 1-floor area for office? I mean I don't... that would be a tough one too
15 because that would be kind of non-conforming. A non-complying facility that you're changing
16 the use in so we might be in that same similar situation about conversion of use inside a
17 grandfathered building. I'm just trying to kind of throw out a hypothetical. This (interrupted)

18
19 Commissioner Summa: Ok so it sounds like... I mean that's not exactly what I was asking. I was
20 really trying to get some idea of potentially how much... I mean I think we'll all agree that office

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1 is more lucrative for property owners than rental even though rental prices are getting so
2 expensive. So, I was just wondering if we had any idea of how many units we have downtown
3 that could potentially convert to office but if we don't have that number... ok, thank you.

4
5 Chair Lauing: Ok let's move to public comment. We have quite a lot of speakers, welcome you
6 all for participating in the process and I'd like to do 3-minutes per speaker given the size of the
7 group. So, the first one up and this is speaking to the hearing on adoption of the ordinance
8 omitting Chapter 18.18 is Joe Hirsch and next is Suzanne I believe it's Kek.

9
10 Mr. Joe Hirsch: Thank you. I am Joseph Hirsch, a member of the Palo Altans for Sensible Zoning
11 Steering Committee which has authorized me to make the following statement on its behalf.
12 Now withstanding Council's prior actions, it may be the time given what is known now to give
13 Council a different recommendation on this item than what they might expect. City Staff and
14 some of you, maybe all of you, have spoken out about encouraging below moderate rate
15 housing throughout the City, particularly in the downtown area. It is our suggestion that
16 whatever action you take tonight you should be extremely clear about the effect your
17 recommendation will have on Hotel President Apartments and other similar properties in the
18 downtown area. You should be very clear if the action you recommend tonight will make it
19 easier to convert current rental apartments to either hotel rooms or luxury apartments. If you

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1 do that the Palo Alto community will be fully advised as to what is happening. They deserve
2 that and you do deserve to be fully clear with the people you serve.

3

4 From our perspective, we urge you not to be apart of a process that will, in essence, evict the
5 tenants of the Hotel President Apartments. Some of whom have been living in downtown Palo
6 Alto for long periods of time. Accordingly, we suggest that you recommend retaining Section
7 18.18.040 and its non-residential development cap which is different than an office R&D cap.
8 Given the adverse consequences, we now know will result if the non-residential development is
9 unfortunately repealed. That is if repealed one barrier to the tenant's eviction will have been
10 removed. Is that what you want to recommend? We urge you to take a stand that will help
11 preserve below moderate rate housing in the downtown area by recommending retaining the
12 non-residential development cap. We need your leadership in view of changed circumstances.
13 Thank you for considering this request which as I noted before is being made on behalf of Palo
14 Altans for Sensible Zoning. Thank you.

15

16 Chair Lauing: Thanks very much. Suzanne Kek? Keek? I'm not getting it correct, you'll help me
17 out.

18

19 Ms. Suzanne Keen: Suzanne Keen. Good evening. I have never... I never knew about Hotel
20 President and the wonderful community that live there until all this came up. I am actually so

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1 thrilled that we have a group like that and that we can continue the ordinance as it is and
2 support this kind of diversity with such vulnerable people that we need in our community. So, I
3 hope that you will keep the ordinance as is and protect vibrant communities as is. Especially
4 since we seem in Palo Alto think we need to build more below market rate housing and as
5 somebody who else spoke said, this is... if you build new it's nowhere going to be so much more
6 expensive than keeping something old that is working. Thank you.

7

8 Chair Lauing: Ok thank you. Robert Moss.

9

10 Mr. Robert Moss: Thank you, Commissioners. I agree with Joe Hirsch and I think it's essential
11 that we retain Section 18.18.040. As you know we have a jobs/housing imbalance in Palo Alto.
12 We should be doing everything that we can to preserve housing, especially lower-income
13 housing, and everything we can to prevent housing or housing type uses from being converted
14 to offices. We should [unintelligible] a proposal for downtown right now would do. Now I have
15 happen to be very familiar with the President Hotel. When I first started working in Palo Alto in
16 1971 we couldn't sell our house in Rancho Costa Verde so for 2-years I lived at the President
17 Hotel during the week and on Friday I'd fly home to LA and on Monday I'm back up to San
18 Francisco. Fortunately, we've been able to live in Palo Alto since 1973. Only 45-years, I'm a
19 newbie here so I think if you retain 18.18.040 you are saying that you are retaining the kind of
20 low capacity development that we need downtown. We're supposed to be encouraging

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1 downtown residential and discouraging increasing office use. If we allow the existing
2 elimination of 18.18.040 all that goes away. So, I think it's important for a number of that we
3 preserve that and we do everything we can to preserve housing. Especially small lower cost
4 housing downtown so I would urge you to act effectively tonight and don't allow the conversion
5 and don't allow removal of 18.18.040.

6

7 Chair Lauing: Thank you. Arthur Keller.

8

9 Mr. Arthur Keller: Thank you, Commissioners. So, there was an interesting blub in the Weekly,
10 which I'm going to paraphrase, of Mayor Kniss's quote. And she said it's hard to get City
11 employees because it doesn't have the same cache as it uses too. Well, it actually doesn't have
12 the same cache as it uses too and part of the reason for that is because prices are... of living in
13 Palo Alto are going up and up and up. And why is that? Because we keep on building more
14 office space and there's a push for office space and not enough push for housing. And as a
15 result of that, we are now... you are being asked to remove one of the caps which has been in
16 effect since 1989 and that cap is on an amount of non-commercial downtown. So, I'm
17 wondering if this the right time? Why is... why are we rushing to do this? The Council did
18 recommend removal from the Comp Plan of this policy but that's not the same as
19 recommending removal from... actually having a policy or program to remove it from the
20 Comp... from the ordinance. And so, we don't actually have a recommendation removing the

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1 ordinance from the actual motion that was made by Council. And in fact, the motion talked
2 about monitoring development and parking demand. Where are we... wherein the Staff report
3 does it talk about monitoring development? Where in the Staff [note-report] does it talk about
4 parking demand? Nowhere and there for doing this instead of... it does not make sense when
5 we're not doing the things that even the motion talked about doing in concert. In addition, we
6 should be talking about traffic because we increasing are seeing going through downtown,
7 going on University Avenue, going on Willow Road, going on Middlefield Carmageddon. So, we
8 need to think about traffic impacts. People talk about traffic being bad. We should... I don't
9 recall the CAC specifically making this an option for the Council to consider. I think it was on the
10 Council's own motion.

11

12 And also, why are we rushing through this? Is this because we're removing one barrier for the
13 President Hotel Apartments? It seems to be suspicious that that might be a cause. We should
14 wait until new TDM evaluation is done and see how that's [unintelligible]. We should wait until
15 the Stanford GUP happens and we see how much growth is going to happen in there in terms of
16 traffic that's flows through downtown. And until the Stanford Medical Center construction is
17 complete and a November election in which there is a growth ordinance initiative on the
18 election. So why are we rushing to do this? You should say no, don't implement this change and
19 let it come back. Instead, implement changes of things we need like renter protection. Use your
20 time for that.

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Chair Lauing: Thank you. Next up is Elaine Meyer.

Ms. Elaine Meyer: Good evening Chairman and members of the Commission. There's so much confusion. Hardly anyone knows what's going on. Sure, this ordinance is supposed to clarify the confusion? Yeah, right. Who benefits from the confusion? As specified in the January 2017 Wolbach motion focus should be on monitoring, development, and parking demand before making any other changes.

When I first learned of the Council's intention to pre-empt the Citizens Intuitive, I was disheartened. How could our City leadership be so deeply in the pocket of developers as to try and silence us? Then I realized that this move... their move could backfire. It will make people feel betrayed. I think the result could turn out to be that the Citizen's Intuitive will win by an even larger margin than we anticipate.

Just a reminder on another subject, you probably know that the 2017 Citizen Survey reported the percentages voting good or excellent on many issues. In fact, only 40 percent of the population approved of the City's "Land Use Planning and Zoning". Only 51 percent believe Palo Alto is generally acting in the best interest of the community and only 45 percent approved the overall direction that Palo Alto is taking. I have a suggestion for the Planning Staff. The code is

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1 barely readable. It needs to be clarified, simplified, removing redundancy, and made readable
2 by intelligent people. I think that is where the Staff's energy should go because who benefits
3 from the confusion? Maybe the developers of the President Hotel. Thank you.

4

5 Chair Lauing: Thanks very much. Ms. Roberta Ahlquist. Next up is Terry Holzmer.

6

7 Ms. Roberta Ahlquist: My name is Roberta Ahlquist and I'm speaking on behalf of the Women's
8 International Leagues for Peace and Freedom, low-income housing subcommittee. And half of
9 my speech was already said by Mr. Keller so thank you very much for putting that on the table.
10 There are two caps, one cap is a cap on Annual Office Cap Applicants to the downtown El
11 Camino and California Avenue. The other cap is an Absolute Cap on downtown commercial
12 development. I think those have been conflated in the discussion and they need to be
13 separated. We don't need... we need the caps on office development. It's clear if you would
14 want to do something for the Council it would be recommend renter protections, recommend
15 that no low-income housing, no rental housing be destroyed until there's replacement housing.
16 So, the people who are living here who are now getting increased... rent increases, therefore,
17 having to leave. There's a whole building with 11 different units on the corner of Webster and
18 Hamilton that is vacant. All those people had to leave town because there's a proposal for a
19 commercial office and condominium development. That's what's going to happen unless you
20 find a way to stop it. We don't need high-income condos. We need housing for the people who

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1 work here. Those who travel the farthest who have kids who they have to put in some kind of
2 daycare in order to get to work. Those are the people who have the least amount of money for
3 the gas or the other kinds of transportation costs. So, find a way to not remove the caps on
4 office development but to provide low-income housing for our workers which makes the
5 community more or a community.

6

7 Chair Lauing: Mr. Holzmer. Yeah, we like... Council has advised me that it's not policy to
8 support with that kind of demonstration but we do thank you for your participation. Mr.
9 Holzmer followed by Rita Vrhel.

10

11 Mr. Terry Holzmer: Good evening Commissioners. I wish to highly recommend that you support
12 ordinance 18.18.040. I recommend that the PTC take no action tonight that would endanger or
13 change the current downtown cap. Changing or modifying this cap would seriously impact not
14 only the residents of the President Hotel but potential residents that live also in the downtown
15 area. I'm against anything that would severely impact the residents of this community that
16 would impact them in a bad way. The residents of the President Hotel deserve the same
17 treatment that any neighborhood in Palo Alto receives. We need to keep our existing housing
18 stock and prevent any attempt that would either eliminate that or change it. We need to do
19 more to protect the citizens and the residents of this City. Thank you.

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1 Chair Lauing: Thank you. Rita... is it Vrhel?

2

3 Ms. Rita Vrhel: Vrhel

4

5 Chair Lauing: Ok thanks.

6

7 Ms. Vrhel: I don't envy you tonight. I have to say that I'm completely confused and I am just
8 going to speak my mind. I think everyone has already spoken very well to the topic. I am really
9 concerned about the timing of this issue. Why now? Is that because of the votes initiative to roll
10 back office growth and development? Is it because of the sale of the President Hotel? Is it
11 because our City Manager and some City Council Members met with the new owner before
12 they bought the hotel? Is it because Jeff Levinsky dug through all the data and found that it was
13 a non-conforming use and therefore probably can't be converted without a legal fight? I wrote
14 a letter to the editor a while back that basically stated politics in this town stink. People are fed
15 up. You know you talk about the Comp Plan being changed. I was by a 5 to 4 vote and I would
16 remind you that 3 of the people that voted in the 5 to 4 majority were investigated for
17 campaign issues. One of the investigations is still going on a year and a half later. I wonder why?
18 I also would remind you that the CAC met for, oh god what was it, 18 months? Doria, you were
19 on it and there was actually no majority view. It seemed like it was Palo Alto forward and the
20 residents. It was very, very divided and if you remember the January 2016 Comp Plan meeting it

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1 was a disaster with our then-Mayor Greg Scharff making motions and hogging the floor and
2 saying I won't accept that. So, when you talk about a 5-4 majority and directing you to do
3 something you really need to look at that majority and the way that majority came to the City
4 Council. And honestly, there are a lot of things that are not in the Comp Plan which remain in
5 the Municipal Code. I would urge you not to get involved in the tardy display of politics that the
6 City Council has shown us lately. People are fed up. I would table this and say go it on your own
7 and let the voters decide. Thank you.

8

9 Chair Lauing: Ok thank you. Next speaker is Herb Borock followed by Becky Sanders.

10

11 Mr. Herb Borock: Chair Lauing, Vice-Chair Monk and Commissioners I urge you to continue this
12 agenda item until the first meeting in January to give the Staff the time required to prepare a
13 project. Let allow an environmental document as required by the environmental impact...
14 California Environmental Quality Act. And also, as other speakers have said for the practical
15 reason that there's intuitive measure pending and you might as well see what the results of
16 that are to inform any decision that you make. You can't make a recommendation in the
17 absence of the required environmental document. A motion to continue takes precedence over
18 a motion to take action on the Staff recommendation and therefore it would replace such a
19 motion if it... ones before you but a motion on the recommendation could not replace the

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1 motion to continue. Which must be disposed of before there's an opportunity to discuss the
2 substance.

3

4 An Environmental Impact Report is a consistent set of policies... internally consistent set of
5 policies and programs and in this case is EIR for a Comprehensive Plan that replaces another
6 Comprehensive Plan of internally consistent policies and programs. Within a specific
7 Comprehensive Plan, you can replace programs and policies but individual programs and
8 policies from one EIR one Comp Plan did not replace those as another as stated in the Staff
9 report.

10

11 The existing cap that's being discussed before you is consistent with the cap that was adopted
12 Citywide; they both occur. There's nothing in the Comprehensive Plan that has a policy or
13 program to eliminate this downtown cap. Accordingly, since the EIR did not... does not contain
14 sufficient information to assess this proposal and all the effects of the specific action Staff is
15 required to do the Environmental Review conveyed in an initial study leading to a Negative
16 Declaration... a Mitigating Negative Declaration or another EIR. I'm surprised that this is coming
17 before you now because unlike a number of speakers who are speculating what development
18 will occur. I see nothing in the next 6-months that's going to be impacted by this and certainly,
19 that wouldn't impact the continuation until January. Thank you.

20

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1 Chair Lauing: Thank you. Becky Sanders followed by Tucker Berckmann.

2

3 Ms. Becky Sanders: Good evening Commission Members. Thank you for your service. I was
4 triggered by a previous comment mentioning Casa Olga so I threw out my prepared statement
5 because it took me an entirely different direction. If we don't keep 18.80.040 [note- 18.18.040]
6 it will not only exacerbate an already direr housing situation. I think it will accelerate. We really
7 need to do everything in our power to prevent the erosion of any kind of housing and of course
8 to promote the building of more housing. In my neighborhood Ventura I walk all the time and in
9 the past 5-years, I've seen a real change with more people living on the streets. The Olga... Casa
10 Olga a good friend of mine's mom lived there and she was evicted and she died within about 3-
11 weeks of relocating. I'm not saying that was the fault but eviction is very stressful, particularly
12 on elders, people living in a fixed income, I think it's cruel and I was really saddened to be
13 reminded of Carol's passing.

14

15 So ok in Ventura my daughter and I were hanging around and we drove... we found someone
16 dumpster diving and we drove them to the Opportunity Center. And his story was like many
17 other people's story. Had an apartment, lost it, lost his job, that was 2-week ago. A woman... I
18 thought I recognized her was living behind the Shell station near my house and I talked to my
19 neighbor and they went and kind of looked at her and it turned out she use to rent in Ventura.
20 And nobody had seen her for a while and all of sudden she's living behind the Shell station and

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1 she moves between three places. And then there's this family that lives in a car that I see on a
2 regular basis and they're doing a great job; of a father, a daughter and a mother living in the
3 sedan. I'm not quite sure what this has to do with this ordinance but somehow the drive for
4 money over people is turning our City into a very ugly place. And so, I want to encourage you all
5 from a moral standpoint and you have a legal standing to do so because it's not like we're
6 asking you to do anything illegal. Just go ahead and uphold this ordinance a little bit longer so
7 that we can continue toward to address this crisis in humanity in our City. Thank you.

8

9 Chair Lauing: Thank you. Tucker Berckmann followed by Annette Ross.

10

11 Mr. Tucker Berckmann: I wanted to respond briefly to the question from the Commission to the
12 Staff of whether this would actually affect the President Hotel and I believe the response from
13 Staff was no because this is a non-conforming building. What if in the meantime the building
14 classification changes and then it would be protected by the cap? That was not clear from the
15 earlier comments tonight and I think clarity should be gained on this point before we dismantle
16 18.18.040. And I think we need to find the exact count of the building, I think we need to find
17 out who the suitors are for the remaining space and also if there is pressure to remove this cap
18 it should be clearly stated what that reason is and who it is that needs a space. Otherwise,
19 there is no immediate need for removing the cap. Can't we live with 25,000-square feet for
20 another 6-months? Does this item need to be retained, perhaps changed, or merged into

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1 something else? If... even... if so then there should be a period of consistency where the cap
2 remains in place until those changes are made. Thank you.

3

4 Ms. Annette Ross: (off mic) I'd like to give my time to Taylor [note -spelling] Brady. Is that ok?

5

6 Chair Lauing: Sure. It's just one of you.

7

8 Mr. Taylor [note -spelling] Brady: Good evening everyone. My name is Taylor [note -spelling]

9 Brady and I am a resident of College Terrace as I have been since 2014. And I would like to
10 speak in favor of maintaining the 18.18.040. One thing I'd like to point out as I begin is this
11 particularly rich but a double speaks in the Planning and Transportation Commission's
12 summary. The proposed repeal of... in Palo Alto Municipal Code Section 18.18.040 would bring
13 the Municipal Code into conformance with the recently adopted Comprehensive Plan and then,
14 this is the important bit, reflecting the policy change to focus on limiting office/R&D growth
15 Citywide. Of course, limiting office and R&D growth Citywide also involves focusing on critical
16 areas which it seems like the City is blindly assuming is not an important thing. The downtown
17 area where we're talking about development caps is one through which three major transit and
18 thoroughfares run. We're talking about University Avenue, we're talking about in an ancillary
19 capacity the Embarcadero and we're also talking about El Camino. So, we're talking about
20 major routes through which people come into the City which exacerbated the traffic problems

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1 in the morning that exist because of the massive imbalance between office workers and people
2 who can afford to live here. And we're talking about removing those caps in order to allow the
3 development of more space that not only specifically evicts low income or low or moderate-
4 income residents who have a low impact lifestyle but also provides the precedent for allowing
5 future developments, non-residential developments, to go bananas all over the City. The
6 50,000-square foot Annual Cap is a somewhat annual cap on office space in the three targeted
7 zones is somewhat misleading because it also goes along with the 1.7 million additional square
8 feet that are being allowed to go on in the rest of the City. I'd also like to focus on a couple of
9 key elisions by the members of the Staff representatives French and Lee enlightening the type of
10 square footage that has not been counted in the cap for 18.18.040. Talking about common
11 areas and parking and other such parts of all of these commercial developments that are of
12 course key to their operation as commercial or non-residential developments but are not being
13 included. Thus, giving us this magical 25,000-square foot that are still left. What we need in this
14 City are beds, not desks as Annette encouraged me to say and I say that from a very personal
15 standpoint as a young person who's having a hell of a hard time staying here.

16

17 Chair Lauing: Thanks very much. The next speaker is Iqbal Serang.

18

19 Mr. Iqbal Serang: Evening... good evening Commissioners. I'm one of those newbies living at the
20 President for decades, close to 3. I remember when he had dark hair, I'm kind of losing it too.

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1 I'd like to support Arthur Keller's statement and others who have suggested you tabling this for
2 a future date. Perhaps give the opportunity for City Council to take the lead and provide unique
3 protections for the existing residential rental units at the President. Since all new developments
4 of larger sizes of residential or housing developments are practically modeled after the
5 President Hotel Apartments being dense, being small sizes, being hardly any parking, being in
6 the CD Zone and close to mass transit. It is time to consider that building a treasure for Palo
7 Alto. I understand you may not be able to make that type of statement for it to apply to an
8 existing structure but what a statement it would be. It may provide some teeth to City Council
9 to take the lead and create that possibility. Thank you very much.

10

11 Chair Lauing: Thank you. Margaret Heath.

12

13 Ms. Margaret Heath: [unintelligible] ok, can you hear me? Yes. Good evening Commissioners.
14 I'm here to support keeping the cap downtown. Others have spoken very eloquently this
15 evening about why you should do that and I agree and support all of their reasons for doing so.
16 In fact, this suddenly... we find this week this suddenly is on the agenda and it has all the
17 appearance of being a bit sneaky actually. As if it's possible for the benefit of one particular
18 business without having the chance to really explore why we should eliminate the cap? What
19 are all the unintended consequences might be or the intended ones? The President Hotel is a
20 perfect example of exactly the kind of housing that we need downtown. Council has been

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1 advocating for this. I think many people have and I don't see any reason to remove it from our
2 rental units... our residential rental units and most especially because of its location. And
3 indeed, there may be other housing unit's downtown that would also be eliminated if the cap is
4 reduced. Thank you.

5

6 Chair Lauing: Thank you. Mr. Jeff Levinsky.

7

8 Mr. Jeff Levinsky: Good evening Commissioners. Look around at downtown and see what it's
9 become. We've piled in more buildings and more workers and more cars. We've created a
10 mess. Downtown residents here tonight are being evicted because we have no effective renter
11 protection and residential preservation laws. Others here can't park in front of their own
12 homes or get out of their own driveways at rush hour because so many commuters have taken
13 over our neighborhood streets. Those of us who live yet farther away won't even come to
14 downtown anymore because it is... it's traffic and parking are unbearable. Downtown is
15 supposed to be the heart of our community, it has become a disaster. And then we find in all
16 this darkness a small but gleaming ray of hope. A 3rd of a century ago a wise City Council
17 anticipated what would happen. They foresaw that excessive development might go awry and
18 they crafted a solution. A cap on downtown commercial growth that lets us step back and
19 address the traffic, parking, and other problems. That cap kicks in once 350,000-square feet of
20 non-residential development are added downtown. The law says the City should count all new

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1 non-residential square footage, the City hasn't. According to its own records, it has not counted
2 common areas, parking, storage spaces converted to offices and more. You don't have to look
3 far to find an example. For most of the 20th century, there was a 1-story, 5,000-square foot
4 building right across the street from us at 240 Hamilton. Radio Shack was there. A few years
5 ago, it was replaced by a new 4-story building. You would think the new non-residential space
6 at that site would all count towards the 350,000-square foot cap but the plans for that building
7 show it actually added 50 percent more new commercial space than the City shows on the
8 records for the cap. That's just one small building. Once you start correcting for others it
9 appears that we're already over the 350,000-square foot cap. That means there should be a 1-
10 year moratorium, that moratorium will apply to buildings like the Hotel President and others
11 and prevent them from converting to hotel or offices. And let me say that the grandfathering
12 law, I am familiar with it is not enough because our City loses cases. They lost the case on
13 Edgewood Plaza. We hoped that they went back on appeal but we need all the protections that
14 we have in the law. We cannot give any up and keeping the cap also provides a unique
15 opportunity for you as Commissioners, the Council, and most importantly the public to
16 reimagine downtown so it can best serve its residents and our entire community. We can fix
17 Palo Alto. Please help by voting tonight to keep the cap in place and to protect our City. Thank
18 you.

19

20 Chair Lauing: Thank you. Ms. Karen Porter, I think.

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1

2 Ms. Karen Porter: Good evening. I'll acknowledge I'm actually fairly new to this issue. I've been
3 focused on the jet noise fiasco over the last couple of years. I see some similarities. I don't see
4 our City leaders taking enough action to protect the residents and community members
5 interests. And I have to say I've been very impressed by all the speakers I've heard tonight who
6 are unanimous in their ask that the City either delay or reject this proposal. And I have to ask
7 myself where are the people, the community members, who are in favor of this proposal? Why
8 aren't they here? Why are they not showing their faces? And so, to me, it suggests that it's
9 really just the lobbyists for the developers who are behind this proposal. I really think we need
10 more transparency and more effective and considered decision making before a change like
11 this is implemented. Thank you.

12

13 Chair Lauing: Thank you. Lenore Cymes and then Mary Sylvester.

14

15 Ms. Lenore Cymes: Thank you very much for hearing me out and for your service of what you've
16 got to do up there. I hadn't planned on talking. I just want to share my experience. On Tuesday I
17 had to go from my house which is on Wildwood Lane, I turn on Channing and I turn to St.
18 Francis and I get in Embarcadero. It took me 25-minutes to get to Home Depot. Think about
19 that. It usually takes me 2-minutes, 3-minutes, 5 if I get a couple of red lights. Coming back, I
20 had to do an errand on University Avenue so went over 101 and I couldn't figure what was

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1 going on. From 101 to Middlefield Road heading east it was bumper to bumper the entire way.
2 It didn't stop. I heard horns for the first time in Palo Alto. Is the new ruling going to be what is a
3 second in New York for time for the car in front of you to honk the horn for the car behind to
4 hear it? It just didn't make sense and tonight I noticed coming down here, I come down on
5 Hamilton to come downtown. When I got past Greer there was hardly a parking spot. Maybe
6 somebody was having a big party, I don't know but I've never seen that many cars on Hamilton
7 to get all the way downtown. Thank you and I hope you think about the real-life experiences as
8 you make your decisions.

9

10 Chair Lauing: Thank you. Mary Sylvester and then Katja Priess.

11

12 Ms. Mary Sylvester: Good evening Commissioner and City Staff. I'm here to echo much of
13 what's been said this evening. I urge the maintenance of 18.18.040, the cap, not it's repeal as
14 has been recommended by City Staff. We need more time for review before this is even
15 seriously considered. As has been said tonight why now? This Council chambers and the media
16 we've heard for over a week is confused. Why is this going on? Can we please have some
17 transparency why this discussion is happening at this point in the middle of summer when
18 many residents are out of town?

19

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1 On a personal level, I am particularly concerned about the President Hotel residences. This is a
2 warm, vibrant community as we've seen not only tonight but before the Council before it took
3 its break. I've had friends and still do in the President Apartments. One of whom is a teacher in
4 our local school district. These are people assisting our community.

5
6 Just to walk down memory lane, I remember Cosa Olga and the single room occupancy hotel
7 that use to be next to it on Hamilton and Emerson Streets. These two facilities had over 100
8 residents; low income, seniors and the disabled. Where is the replacement? There is none. And
9 as to more commercial growth you've heard from all the speakers tonight. We don't need that
10 at this time. We need to rectify the job/housing imbalance. Arthur Keller well illustrated this
11 year the number of major issues this community has to grapple with. This should not be one
12 we're considering at this time. Thank you.

13 ,
14 Chair Lauing: Thank you very much and Katja Priess.

15
16 Ms. Katja Priess: Yeah, my name is Katja Priess and I spoke earlier so I lived in the Hotel
17 President again 20-years. And I didn't really prepare much to say at this point but I wanted to
18 thank really everybody who spoke right now in favor of keeping the cap. A lot of our community
19 right now said that there is hope and what really touched my heart is that I don't know a lot of
20 the people who spoke tonight but this is the reason why we would like to stay in Palo Alto.

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1 Because there is still this spirit of community that people do speak up for each other and
2 support each other. If we cannot stay in the President, we have to get out of Palo Alto. We
3 would lose this spirit of community and it would break the heart of a lot of us who live in the
4 President. That's all I wanted to say, thank you.

5

6 Chair Lauing: Thanks very much. So that concludes the public speakers and the...

7

8 Mr. Bill Ross: [unintelligible – spoke from the audience off mic]

9

10 Chair Lauing: Right, we only got one card.

11

12 Mr. Ross: [unintelligible – spoke from the audience off mic]

13

14 Chair Lauing: Ok that's fine. Why don't you just... why don't you just fill that out again? We're
15 not trying to keep you away.

16

17 [note- many people from the audience started speaking at once]

18

19 Commissioner Alcheck: [off mic] Do you want me to fill that out for you?

20

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Mr. Ross: [unintelligible – spoke from the audience off mic] Commission, Chair, Commissioners respectfully, I have comments in two areas barring on this agenda item. One is General Plan consistency and the other is CEQA compliance. Pages 3 to 4... first of all what's before you is a change to the Zoning Ordinance. It's not just a code change. This is clearly a project under CEQA. It's also subject to General Plan consistency analysis. The analysis that you have before you is on Pages 3 to 4 and focuses principally and exclusively on the Land Use Element. That's not the standard. The standard is that articulated in the 2003 and 2016 General Plan guidelines that confirmed judiciously. What is that? That you look at the action and you say does the action further without hindering all elements of a General Plan? That analysis isn't here. Respectfully if you look at the Housing Element of the new Comp Plan there are several policies that bare on the preservation of existing housing. Among others, there's an inventory of sites that should be in that analyzed in such an analysis that would bear on the CD district. That's absent. On the CEQA issue, I would incorporate the testimony of all the tenants that were present here tonight. Why does that bare on not just relying on the Comprehensive Plan/General Plan? Much like Herb Borock, I would say there's a need for another assessment, an initial study. Why? There are changed circumstances under CEQA guideline Section 15.626 if I remember correctly, under which this project would be carried out. What is it? Among other things, tenants are going to be displaced. There's an economic impact. The normal rule under CEQA is that economic impacts are not assessed but that's qualified if there's going to be an

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1 effect on the environment. We know there are going to be displaced. There's already an
2 agreement for relocation assistance by AJ Capital. Let's look at AJ Capital and on this, I have
3 personal knowledge. What are they doing? They have 11 existing facilities in university towns, 9
4 planned, all of them convert to exclusive Airbnbs. Is that what we want? We want to have that
5 displacing of diverse housing opportunities that exist right now contrary to the new General
6 Plan policies? I would respectfully suggest and this would be the part that's based on personal
7 knowledge, let's go look at another one of those existing facilities. One exists in Iowa City, Iowa.
8 It's 9-stories, it's 237 units, the prices... and the cost of living in Iowa City is about 1/3rd of what
9 it is here, is for units for \$160 to \$360 a night. It's for people like Gene Wilder. Allow me to
10 finish if you will please? My point is that's what we're putting in in the President Hotel and
11 we're displacing tenants? Much like Mr. Borock, I think there's an incomplete CEQA analysis
12 and incomplete General Plan analysis. On those bases alone, you should differ until you get that
13 type of analysis supported by substantial evidence before you. Thank you.

14

15 Chair Lauing: Thank you. Alex Smaliy.

16

17 Ms. Alex Smaliy: [unintelligible -off mic]

18

19 Chair Lauing: Ok.

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1 Mr. Smaliy: Hi, I spoke early and I wanted to follow on from what the previous speaker said. I
2 just wanted to speak plainly about what is actually happening at the President right now. Which
3 is that yes, there was a comment earlier that AJ Capital have not applied to change the use of
4 the building. But we have to look at what they are which is they're a hotel developer. They
5 develop hotels. They are not... it is difficult to imagine a scenario in which they maintain the use
6 of the building as residential. They will apply for an exemption. They may have to struggle with
7 the City to get it but if we limit the protections on the building to just it's grandfather statues it
8 again may not be enough. Because they will try to get like...this is what they bought the building
9 for, they paid untold millions of dollars to convert the building to a hotel, they're even quite
10 clear about the recent New York Times article with a wonderful title of the Education of a
11 Brotelia [note – couldn't find the spelling]. So, its... just because they haven't applied to change
12 the buildings use far and away doesn't imply that they will... that they will not do it. They're
13 already... they're forcing the tenants to empty the building so the [unintelligible] is already
14 being destroyed. And as a landlord, they are within their own rights to do that. We are tenants,
15 we are not owners. Sure, we may be gone but maybe the building will remain and others will
16 have the opportunity to live downtown in this walkable, transit-accessible, dense, wonderful
17 downtown community. Great but it is extremely dubious that this is what they are planning to
18 do.

19

20 Chair Lauing: Ok the last speaker and we're going to close comments here is Michelle Kraus.

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Ms. Michelle Kraus: Thank you so much, Commissioners. I just wanted to thank the community as my colleague and friend Katja did. They've stood up for us and not only the Planning Staff have raised their voices but here we are and we're asking you to join us. Again, what I [unintelligible] in my professional hat is there's confusion over the metrics. Doria, you raised it. Is it FAR? Is it square footage? What's counted? What isn't counted? Let's go back, take a step back, and let's take time to figure this out and I urge you to uphold the cap of 18.18.040. We need you. Thank you.

Chair Lauing: Ok thank you. That concludes the testimony part of the hearing and now we'll bring it back to the Commission of Item Number 2. So, we just opened the floor to comments and questions from Commissioners. Just light up your lights. Commissioner Alcheck.

Commissioner Alcheck: Ok, I have a question but I'm not sure you'll be able to speak to maybe but just so I make sure not to misspeak later. Would it be your understanding that (interrupted)

[note – many people speaking from the audience at once]

Commissioner Alcheck: Do you think it's correct to suggest that the ballot measure coming before the City in November, I think that's qualified, regarding amending the cap that was

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1 adopted in the Comprehensive Plan is not impacted by this adjustment? What I'm trying to say
2 is there's been a suggestion that this would somehow preempt the citizens ability to speak but
3 it's my understanding that the ballot measure isn't amending the Comp Plans 1.7 million City-
4 wide cap, not another or I should say the more current 1.7 million cap not this sort of pre-
5 existing cap. Is that accurate?

6

7 Mr. Yang: I think what you're asking is, is there a relationship between this cap and the ballot
8 measure or the City-wide cap of 1.7 or half of that amount whatever it may be. And from our
9 perspective no, there's... those are unrelated caps.

10

11 Commissioner Alcheck: Ok that's sort of what I understood the ballot measure to say. Ok, so
12 I'm going to... are you setting time limits or are we... ok, so I'm going to... I'm just going to
13 address one thing about process real quick. I'm glad Elaine Miller that you joined us tonight. I
14 was hoping I'd have an opportunity to meet you. I want you to know that when I saw your
15 Next-Door post on Monday at 4 because I get the roundup, I was a little disappointed. Because
16 you wrote and I'll quote it because I think it's worth... that we all work setting the tone here,
17 which is you said that the development cabal on the PTC is concerned about the Citizens
18 Initiative to restrain office growth will pass. And so, the Planning Commission has scheduled a
19 discussion to raise the Downtown Cap to preempt the election and the expression of the
20 citizen's voice. I think it's safe to assume that when you say development cabal you are

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1 referring to some nefarious group of which you believe I am a member. And if that's the case I
2 just... I want you to know that none of the Commissioners before, all of which are volunteers,
3 have any oversight or influence on agendaing an item like the one before you... before us
4 tonight. In fact, I had only begun and had not yet finished reviewing this item when I saw your
5 post and so I just hope that everybody knows that there's no effort... the cabal members are...
6 did not ask Staff to bring this forward. And you know you may not realize it but on our
7 Commission's website my contact information is provided and I really wish you'd called me
8 before suggesting that somehow there was nefarious intent.

9

10 [note -female:] [unintelligible -speaking from the audience] a conversation [unintelligible].

11

12 Commissioner Alcheck: No because I want you to know we received almost (interrupted)

13

14 [note-female:] [unintelligible – speaking from the audience]

15

16 Commissioner Alcheck: Excuse me.

17

18 Chair Lauing: Right.

19

20 Commissioner Alcheck: I just... I want to address the fact that we (interrupted)

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[note-many people speaking from the audience at once off mic]

Chair Lauing: Let's just make it brief Mike [note-Commissioner Alcheck].

Commissioner Alcheck: Yeah, I just wanted you to realize we received hundreds and hundreds of email (interrupted)

[note -female:] [unintelligible – speaking from the audience off mic]

Chair Lauing: Ok so (interrupted)

Commissioner Alcheck: I just want you to realize we received hundreds and hundreds of emails and there was a general fear (interrupted)

[note-female:] [off mic] Just don't point out one person.

Commissioner Alcheck: It's... I'm not I (interrupted)

Chair Lauing: Ok Michael [note-Commissioner Alcheck], Commissioner (interrupted)

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[note- many people from the audience speaking at once off mic].

Chair Lauing: Commissioner (interrupted)

[note-many people speaking from the audience at once off mic]

Chair Lauing: Ladies and gentlemen, Commissioner Alcheck currently has the chair.

[note -male:] (off mic) How does this move the (interrupted)

Chair Lauing: Ok, ladies and gentlemen (interrupted)

Commissioner Alcheck: Please let me finish.

Chair Lauing: We'll move to recess if we can't get order. So, Commissioner Alcheck currently has the floor and I would urge brevity because I think you've made a point.

Commissioner Alcheck: Let me... if I sound like I took it personally, I'm not. It's just that I'm... we... I'm here to engage with you and I make my self-available. I think we all do and what we

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1 saw in the last 48-hours is a tremendous sense of distrust in us. The suggestion that we have
2 somehow attempted to further the President Hotel's process.

3

4 [note-unknown speaker:] (off mic) Yeah but this is not (interrupted)

5

6 Chair Lauing: Please.

7

8 [note-unknown speaker:] (off mic) relating to the issue [unintelligible].

9

10 Chair Lauing: Yeah, could (interrupted)

11

12 Commissioner Alcheck: We have (interrupted)

13

14 [note-many people speaking from the audience at once off mic]

15

16 Chair Lauing: Mike, I think you've made that point and I don't really want to carry on with it too

17 much longer. Did you have any other comments on the merits here?

18

19 Commissioner Alcheck: Yeah, I'll (interrupted)

20

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1 [note-many people speaking from the audience at once off mic]

2

3 Commissioner Alcheck: Ok.

4

5 [note-male:] (off mic) it's not on the issue.

6

7 Commissioner Alcheck: Alright, I think we've heard (interrupted)

8

9 Chair Lauing: Are we going to (interrupted)

10

11 Commissioner Alcheck: I will continue with my comments.

12

13 Chair Lauing: Let's say... let's stay on the agenda and let's urge brevity.

14

15 Commissioner Alcheck: I'll say... I'll try to conclude with this. The... this issue has been litigated

16 sort of at nauseum this specific issue in our community. I did not agree with everything that

17 came to pass with the adoption of our Comprehensive Plan but I did and I continue to respect

18 the process by which it came about. This... tonight this concept it is a policy discussion and

19 we've already participated in it and Council acted upon it. And with that said though, there

20 remains a legal ambiguity here. I attempted to also understand how this came to us and it

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1 seems to me that there's an effort maybe during the summer when our Legal Department or
2 our Planning Department tries to understand what potential issues may come that they are
3 trying to address that issue which is, I think, admirable. That said there's remains a legal
4 ambiguity and we need political clarity. Clarity that really only our Council can provide which is
5 why I would suggest that tonight we come together. We show the community that we're
6 equally unsure of what the Council's direction was and support a motion that recommends that
7 the City Council make the determination on this code section without direction from the
8 Commission. We've reviewed the growth strategies, in summary, we've reviewed the growth
9 strategies and opined on them. And there's a conflict in our code between this section and the
10 Comp Plan's newer City-wide cap and whatever compromise our Council came to, to enact that
11 cap along with the 50,000-annual limit. And the City Council could immediately resolve this
12 confusion and add clarity and help us understand exactly what was the strategy that they had
13 intended. So again, I want to reiterate that I'm here, I'm available and I would support that we
14 come together as a group to demonstrate that we want to resist sort of the pollicization of this
15 Commission and allow our Council to just provide the clarity that they may be unfortunately
16 didn't provide.

17

18 Chair Lauing: Ok. Other speakers? Commissioner Waldfogel.

19

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1 Commissioner Waldfogel: Right. I want to thank all the public speakers for coming out tonight. I

2 know that it's not... can you hear me?

3

4 Commissioner Summa: No, I can't even hear you.

5

6 [note-male:] Get close.

7

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1 Commissioner Waldfogel: Let me see if I can pull this microphone a little bit closer. Sorry about
2 that, can you hear me now? Ok great. Yeah so, I want to thank you all for coming out tonight.
3 I'm sure it's not exactly what you wanted to be doing on whatever tonight is, July 29th [note-
4 July 25th].

5
6 MOTION #1

7
8 I'm... in the interest of moving this forward I'd actually like to propose a motion and if I get a
9 second on the motion then I would like to speak to the motion. So, the motion that I want to
10 propose is to move the Staff recommendation.

11
12 Chair Lauing: Move the Staff recommendation as published in the Staff report basically. Is there
13 a second to that? No second.

14
15 Commissioner Alcheck: Can I ask a question real quick before it (interrupted)

16
17 Chair Lauing: Well we really need a second before we can discuss it.

18
19 SECOND

20

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1 Commissioner Alcheck: If I need to... I'll second it just to simply ask him a question.

2

3 Chair Lauing: Well yeah, I think we... ok because then we can have a... then we can begin
4 discussion. So, Commissioner Waldfogel moved and it's seconded by Commissioner Alcheck.

5

6 Commissioner Alcheck: I would like to understand the rationale.

7

8 Chair Lauing: Which is why he's going to speak now.

9

10 Commissioner Alcheck: That would be great.

11

12 Chair Lauing: Commissioner?

13

14 Commissioner Waldfogel: Great, we have the motion and a second so it's on the floor. So, I'd
15 like to say I will vote against this motion and my reasons are the following. The City Council and
16 the Comp Plan have set multiple contradictory goals in place that just don't coordinate. I mean
17 right now housing is Priority One, reducing commercial intrusions into the neighbors is I think
18 Priority Two through RPP and other tools, retail protection is Priority Three. I mean I may not be
19 getting the exact priorities right but these are stated priorities and more office is not even a

-
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1 stated priority. So, we're solving a non-problem today and it's something that's just wildly
2 contradicted in the Comp Plan.

3

4 We also see from tonight's speakers on various issues that it's really hard to make any progress
5 on housing. Developers will continue to develop commercial office uses as long as commercial
6 and office uses are possible and they are more profitable than housing. I mean that's what's
7 been happening for the last 15-years and it will continue to happen. And so, until we
8 understand that we really shouldn't change anything. And we're in the middle of a Housing
9 Work Plan and we should really look at this in the context of that Housing Work Plan. Finally,
10 there is a Growth Ordinance on the ballot in November and taking this on right now just looks
11 like it's undermining a democratic process. We just shouldn't do that so if we retain the cap
12 tonight and if we hit the limit in the next year or two, which were likely to do, we have time to
13 develop an alternative. After that Growth Ordinance is voted up and down and after the
14 Housing Work Plan is completed so we have plenty of time to do this. We don't have to do this
15 tonight but my ask is whichever way we vote on this, whether we vote this up or down, let's get
16 it to the Council quickly. I mean here I agree with my colleague Commissioner Alcheck. I think
17 we should make a recommendation, I think we should get at Council, and Council should say
18 whether they like this or not and resolve the ambiguity. I don't think we should let this hang out
19 until next year.

20

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1 I also have a question for our esteemed counsel which is this... and if this is off topic just stop
2 me but just what tools do we have from PTC to make a quick recommendation to Council on
3 renter protection? I mean are there... is there anything we can do around renter protection,
4 evictions, rent increases? I mean we've heard loud and clear that these are issues and just what
5 can we do? I mean do we set up an Ad Hoc? Do we... what's our process?

6

7 Ms. Yang: You know you and your fellow Commissioners are free to communicate with the
8 Council anyway you want too. I mean (interrupted)

9

10 Commissioner Waldfogel: But as a body how do we communicate an intent if we had an
11 intent?

12

13 Mr. Yang: I... that's something that I can think about but (interrupted)

14

15 Chair Lauing: I think we just have to agendize it as an issue and work with Staff to get it on the
16 agenda.

17

18 Mr. Yang: This is something that we can talk about at another time in the meeting.

19

20 Chair Lauing: Right.

-
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SECOND WITHDRAWN FROM THE MOTION #1

Commissioner Alcheck: I'll just withdraw my second since I don't really support the motion.

Chair Lauing: I'm sorry where you done Commissioner Alcheck [note- Commissioner Waldfoge]? So that's on the... it's on the floor for discussion.

Commissioner Alcheck: I wanted to understand his rationale so I withdraw the second because I don't wish to support that motion but I do wish to (interrupted)

Chair Lauing: Is that an option?

Mr. Yang: Yes, of course.

SECOND

Chair Lauing: Ok. I'm happy to second it to continue the discussion if we want because there's a motion on the table, right?

-
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1 Mr. Yang: Only if it's seconded.

2

3 Chair Lauing: Right but I think it's a worthwhile discussion so I'm happy to second it.

4

5 Vice-Chair Monk: I don't think it's a good practice to second motions for the... we can still have
6 a discussion without [unintelligible].

7

8 Chair Lauing: Ok, sorry, did you want to go ahead?

9

10 Vice-Chair Monk: I just think it's odd to make a motion that you have no intention of advancing
11 on and having it pass so why would we discuss it further?

12

13 Commissioner Waldfogel: [unintelligible -off mic] take a vote.

14

15 Vice-Chair Monk: You... oh so you might change your vote on your motion because you stated
16 earlier that you would not be supporting your own motion which I thought was (interrupted)

17

18 [note-female:] (off mic) We can't hear you.

19

-
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1 Chair Lauing: The motion on the... the motion that was made was to accept the Staff
2 recommendation which generates the discussion. So that's basically where we are and he
3 stated why he wouldn't vote for it. I'm interested in getting more conversation so I don't care
4 procedurally how it is. Did you have a comment Commissioner [note-Vice-Chair] Monk? Your
5 light went on.

6
7 Vice-Chair Monk: Yeah, I do have a few comments. First, I'd like to acknowledge some of the
8 members of Council that are here tonight. Our Vice-Mayor is here, Council Wolbach is here if
9 there are others I'm missing thank you for coming tonight, and showing your interest. And also
10 thank you to everyone who sent in letters and everyone who's come tonight. We definitely
11 appreciate all of the input.

12
13 There was an overwhelming support to address the housing crisis and push to preserve housing
14 at all income levels and I heard that unanimously stated by everyone present tonight. When we
15 return on August 29th we will be discussing a framework for Housing Ordinance specific to the
16 downtown area. And I'd like to extend an invitation to everyone here and everyone listening at
17 home to please come, please speak, send letters, walk the walk. We definitely want to hear
18 from you on that issue.

19

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1 As far as the timing of this particular ordinance I find it unusual in that Staff typically goes over
2 agendize items with the Commission. And also, with... specifically with the Chair and myself and
3 this was on that had not been previously brought up to our attention. So, if there was some
4 reason that this came forward other than the code cleanup, which is what we're telling... being
5 told is the reason, I would like to know it. And until then in the absence of that my
6 understanding of our objective tonight is to look at the Staff report because Staff has identified
7 a need to update the code so that it complies with the new adopted Comp Plan and Council
8 direction from January 30th, 2017. So, in that regard, it's quite clear to me what our objective is
9 tonight and why this is being brought to us. And if there is any further confusion on what it is
10 that is before the PTC I would refer to Packet Page 12 which is the actual ordinance and gives
11 background on the prior Comp Plan where the Downtown Cap was put in place. It also
12 explained what was to happen when we got used... got close to approaching the maximum
13 under that and about 4-years ago we were getting close and would have triggered the
14 moratorium. And so that's why it went back to Council and the Phase One of the Downtown
15 Cap Study was put in motion. And based on the findings of that study based on the new Comp
16 Plan Council made the recommendation that we go with a City-wide cap which incorporated
17 the Downtown Cap. And they also enacted the 50,00-square foot cap so we have two other
18 caps that were to replace and update the direction that we needed to go in.
19

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1 We've heard from residents that retaining this cap will somehow have a bearing on preserving
2 residential buildings in the downtown area. However, when we asked Staff about that and look
3 at the code there was anything that I'm seeing that supports that. So, I don't know if there's
4 something indeed that I'm missing but my understanding is that whether or not we take a yes
5 decision on the Staff proposal or we take a no-decision. Either outcome from my understanding
6 has no barring on any residential buildings or conversions in the downtown area. And if I'm
7 mistaken in that conclusion I would like any of my colleagues to correct me or anyone in the
8 audience I invite you to correct me. I did reach out to certain members of the community
9 because there were posts online and on social platforms that gave rise to my questioning as to
10 what was before us tonight. And when I attempted my follow-up I did not get any additional
11 clarification from anyone actually linking what was before us tonight with any potential action
12 that can or cannot occur in regards to the residential units in downtown. That this is an
13 ordinance that relates to the commercial development and it has no barring on residential.

14

15 So, I haven't taken a position on this particular motion just yet but I would say that based on
16 what I'm currently understanding, the motion is to advance this to Council so that it will be
17 back in Council's court for them to reevaluate and decide what to do in terms of this new
18 ordinance. So, I guess I'm leaning towards having it go back to Council in some format or
19 another because we're an advisory Board in any event. And they're going to end up making
20 their decision irrespective of what we decided tonight and it may or may not comport.

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1 Arthur Keller, I'd like to acknowledge that you are here at the podium and if you wanted to
2 address us if the Chair would be ok with that?

3

4 Chair Lauing: The hearings closed but did you have a question for him?

5

6 Vice-Chair Monk: Well, I'm curious Chair, I'm wondering if he wanted to answer my question
7 because I did put a question out to the community where I generally would like to know what
8 exactly is the nexus between what's before us tonight and the Hotel President. And if someone
9 can clarify the nexus for me and... then I would like an answer to it. So, if the Chair is... if that's
10 (interrupted)

11

12 Chair Lauing: Counsel?

13

14 Mr. Yang: It's in the Chair's discretion.

15

16 Chair Lauing: Commission, allow the speaker?

17

18 Commissioner Summa: (off mic) That's fine with me.

19

20 Chair Lauing: Just say yes or no. We're just taking a Commission vote. One, two, three.

-
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Commissioner Alcheck: [unintelligible – off mic]

Chair Lauing: Yeah, I mean we can't do this to 25 speakers so if this is specifically answering one of your questions then we'll allow it but it has to be constrained. Go ahead, Mr. Keller.

Mr. Keller: My understanding is that Commissioners can ask specific members of... questions of members of the public and I'm offering an answer to her question.

Chair Lauing: Right so go ahead.

Mr. Keller: So, it's my understanding that multiple ordinances may apply to [unintelligible] situations. So, with respect to the President Hotel Apartments, in the situation that there... the square footage of that would be converted from residential to a non-residential use, mainly hotel exceeds 25,000 or that incorporated with other developments. Such as the one on Cowper and University where to that cap then this conversion could not happen as an additional reason. Now it does turn out that the City Manager before the sale went through did say that he thought it could happen by right but it's not clear exactly at this public... it's probably going to be litigation that happens. And if there's litigation on this particular sale

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1 because of representations made by the City Manager then having additional ordinances that
2 apply will [unintelligible] the City's case.

3

4 Chair Lauing: Ok did you have any other questions Commissioner [note-Vice-Chair] Monk?

5

6 Ms. Vrhel: I would also like to speak because Commissioner [note-Vice-Chair] Monk
7 (interrupted)

8

9 Chair Lauing: Wait, this is what I don't want to get into.

10

11 Ms. Vrhel: I think there's only one... it's just me. She asked the residents (interrupted)

12

13 Chair Lauing: I think... did you have your question answered, Commissioner [note -Vice-Chair]
14 Monk?

15

16 Vice-Chair Monk: No. I'd be happy to hear what Ms. Vrhel has to say but if you need to put that
17 to a vote to the Commission.

18

19 Chair Lauing: Ok.

20

-
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1 Ms. Vrhel: I think what I heard today was that the two City Staff representatives from the
2 Building Department really didn't have a clear answer as to many of your Commissioner
3 questions. And I think you have an attorney here and I think actually what would be very good
4 would be for Ms. Monk's questions to be given over to the legal counsel... the City's legal
5 counsel and for them to provide you a rock solid, honest question or answer to her questions. I
6 think the rest are conjecture. And having worked with the City Staff before on planning and
7 particularly Ms. French, I have personal experience that all... that leading information out of an
8 answer creates confusion. Thank you.

9

10 Chair Lauing: Alright, let's move on. Did you have any other questions or comments at this
11 point?

12

13 Vice-Chair Monk: Thank you for the input. What I do believe is that additional changes to the
14 code would need to take effect in order for there to be any sort of action on that particular... on
15 the President Hotel. So, this singular action I don't think would have any barring at all and that
16 in order for something to happen additional changes would need to occur. There would need to
17 be another change in the code or zoning or something in order for there to be something to
18 change... to really impact that unit.

19

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1 I do have one question for Staff and that has to do with the... and I know this isn't... Staff has
2 represented that the item that the public is speaking to is not... that there is not a nexus and
3 there's not a relationship to what's before tonight. So, I hope that I'm not out of turn and still
4 referencing it but I also just wanted to confirm that... I just lost my train of thought. I apologize
5 but I guess my main concern is that some of the confusion that I believe that the residents are
6 expressing tonight has to do with what we're tasked to do and what might be available to the
7 residents of this other property. And I don't know that there's been sufficient nexus between...
8 connecting the... what's before us tonight with the Hotel President hasn't been shown in my
9 viewpoint so far. Thanks.

10

11 Chair Lauing: Ok, Commissioner Summa.

12

13 Commissioner Summa: Well, thank you, everyone, for your patience this evening. So, I would
14 like to start out by saying that one of the things that has been emphasized the Council vote on
15 this about 18-months ago. In the last year, the Mayor and the Council have been unanimous in
16 one thing and that is that we need more housing and we need housing downtown. Removing
17 the commercial cap from the downtown will disincentive housing and will create more offices
18 that will contribute to the existing problems that the... our former Council Member's in 1986
19 were smart enough to see so that's the first thing.

20

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1 I think the Council would like to have us give them the recommendation to reconsider this
2 because I don't think since in the last year that is what they have expressed. And I think they
3 rely on us to give them good information. Furthermore, we have had a superabundance of
4 concern from every point of view; the moral; the legal; the sensible. We know we have an
5 existing problem with traffic and parking downtown. We have made a commitment to the
6 residents of Downtown North and South to annually reduce the number of commuter parkers
7 in their streets every year and we cannot do that if we continue to add office. We can add office
8 in other parts of downtown where... and other parts of the City but downtown is full up. I think
9 we should assume given the difficulties that we seem to encounter counting the square footage
10 I think we should assume we've hit the cap. I didn't hear a direct answer but Staff referred to
11 25K left. That... you know... so let's assume we've hit the cap. This cap is not a hard cap, it is a
12 cap that says huh, we're here. This is where we thought the trouble would really start to get
13 really bad so we want to take a year off, we'll take a moratorium and I think that is a really good
14 thing for us to discuss how this affects the other housing issues that are coming before us. I
15 think we should approach this from a holistic policy issue. That is how we will wind up with a
16 solution and a conclusion that serves all the residents in this City as best it can and no longer
17 continues to burdened the downtown with too much office space that it cannot support. So, I
18 would... if I thought there was support from my colleagues I would make a motion that we
19 recommend that we believe we have reached the cap and the moratorium should immediately
20 be put into place. In the absence of that kind of support from my colleagues, I would simply like

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1 to make the recommendation that we do not recommend at this time that the Council abandon
2 18.18.040. Do I have a second?

3

4 Vice-Chair Monk: I'll second it.

5

6 Chair Lauing: Wait so procedurally do we not have the motion already on the table from
7 Commissioner (interrupted)

8

9 Vice-Chair Monk: That's a substitute motion, correct?

10

11 Mr. Yang: Yeah so that would be a substitute motion that Commissioner Summa has made.

12

13 Chair Lauing: That's what I wanted to clarify.

14

15 Vice-Chair Monk: And I would second that.

16

17 Chair Lauing: So please restate the substitute motion.

18

19 Commissioner Alcheck: (off mic) Which one are you seconding?

20

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1 Chair Lauing: She's seconding Commissioner Summa's.

2

3 Commissioner Summa: (off mic) I can't restate it. [unintelligible]

4

5 Commissioner Alcheck: She said two motions. She suggested (interrupted)

6

7 Chair Lauing: It was your ladder motion I believe Commissioner Summa?

8

9 SUBSTITUTE MOTION

10

11 Commissioner Summa: I don't... if I have support for enacting the law that exists right now on
12 the books of the City that would result in a very sensible 1-year moratorium on office space. So,
13 we can all take a step back and look how we can achieve the goals we want together. I would
14 make that motion.

15

16 Chair Lauing: Then you need to make it as opposed to ask the question but if you'd like to
17 (interrupted)

18

19 Commissioner Summa: Ok I'll make that motion.

20

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1 Chair Lauing: do that one, that's ok otherwise we'll go to the second.

2

3 Commissioner Summa: That's a law that is in place and we have every reason I believe to follow
4 it.

5

6 Chair Lauing: Ok so now (interrupted)

7

8 Commissioner Summa: Do I have a second?

9

10 Chair Lauing: Is there a second to that?

11

12 Commissioner Waldfogel: [unintelligible – off mic]

13

14 Chair Lauing: Well first let's see if there's a second. It doesn't sound like there's a second so that
15 motion is not going to forward.

16

17 SUBSTITUTE MOTION DIES DUE TO THE LACK OF A SECOND

18

19 FRIENDLY AMENDMENT

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1 Commissioner Summa: Ok and I'm sorry I made the double motion. I'm not very good at making
2 motions and I make it extemporaneously so whatever I said in the second motion and that is
3 basically that we recommend that the Council not pursue abandoning the Downtown Cap at
4 this time for all the reasons I stated before.

5
6 Chair Lauing: Ok is there a second to that? Was that Commissioner [note- Vice-Chair] Monk's
7 second? I'm not trying to put you on the spot just (interrupted)

8
9 Vice-Chair Monk: I just want to clarify from the maker. Are you just recommending that we
10 don't advise this to Council or are you actually also making some affirmative direction?

11
12 Commissioner Summa: No, I'm... Staff's recommendation was that we recommend that Council
13 go ahead and pursue abandoning 18.18.040. I am saying for all the reason that I stated and the
14 many people in this room who spoke so well that we do the opposite. And we tell them that we
15 think that they should keep 18.18.040 in place and not remove it from the Municipal Code.

16
17 Chair Lauing: Ok so the motion is to retain 18.18.040 so is there a second to that? That's fine if
18 you don't I just didn't want to preempt you from seconding it. We just need a second so we can
19 discuss it so.

20

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1 Commissioner Waldfogel: [unintelligible – off mic]

2

3 Chair Lauing: So procedurally... what I was going to say is there's no second but procedurally I
4 don't see that that's much different. It's just one of those substitute motions that get to the
5 same place depending on which way you vote on it because the first one says we should go
6 ahead and do it and then it's going to be either approved or not. And you're saying we should
7 tell them not to do, it's going to be approved or not so I think we're in the same place.

8

9 Vice-Chair Monk: I guess I have a question for counsel then. Is it the same effect to make a
10 recommendation to keep an ordinance on the books that we know is in conflict with other
11 existing ordinances versus just saying let's not advance this to Council?

12

13 Mr. Yang: So, this... let me try to help maybe structure this. Right now, there's a motion on the
14 table which was the Staff recommendation that the Council adopts the ordinance. One way to
15 distinguish Commissioner Summa's substitute motion is to frame it as a recommendation that
16 the Council rejects the proposed ordinance. And those would be two separate affirmative
17 actions which the Commission could vote on.

18

19 Chair Lauing: Which I think is essentially the same thing as what you're saying, right
20 Commissioner Summa?

-
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Vice-Chair Monk: No, she's (interrupted)

Chair Lauing: Because I don't want him to put words in your mouth so I want you to itemize your own motion.

Commissioner Summa: No, he's correct. To... they are in my mind diametrically opposed. One says please do this and get rid of 18.18.040 from our Municipal Code and the other says please do this, keep 18.18.040 in our Municipal Code.

Chair Lauing: So are... I just want... are you going to accept his language that you want to reject the proposal of Staff?

Commissioner Summa: Sure, I appreciate that Staff will probably word it better than I so that's fine as long as it's clear what the difference is.

Chair Lauing: Ok so we need a second for that which again to my mind sort of going the same place which the same kind of motion.

-
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1 Vice-Chair Monk: I'd prefer to vote on the first motion and then just start fresh with a new
2 motion then go through the substitute motion so I will be seconding it.

3

4 Chair Lauing: So, there's no second to that motion at this point.

5

6 Commissioner Waldfogel: (off mic) I'll accept that as a friendly amendment. I mean we're just
7 trying to get to the same place. The question is just what's the most expeditious process to get
8 to the same place?

9

10 Chair Lauing: Ok, that's very accommodating. That's very accommodating. So, let him just
11 rephrase the motion then as a friendly amendment. Right, did you want to try that one Alex...
12 Albert or are we ok?

13

14 Mr. Yang: So, I guess the question is does the seconder of the main motion accept that friendly
15 as well?

16

17 Chair Lauing: Yeah, no I was just trying to get... we're onto... we're basically onto Commissioner
18 Summa's language now.

19

20 Mr. Yang: Ok so the motion as amended (interrupted)

-
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1 Chair Lauing: And my second still stands.

2

3 Mr. Yang: The motion as amended is a motion to recommend that the City Council reject Staff's
4 proposed ordinance.

5

6 Chair Lauing: Right. Ok and now Commissioner Alcheck has a comment?

7

8 Commissioner Alcheck: Yeah just... so just for clarity, I think even though they're opposites and
9 the failure of one is the same as the success of the other. You need an affirmative motion to
10 have... we cannot conclude this item without an affirmative... without a motion passing.
11 Whether that's a motion to continue, a motion to recommend not approving (interrupted)

12

13 Chair Lauing: Right so that's in place now.

14

15 Commissioner Alcheck: That's why the failure of Asher's [note-Commissioner Waldfoege]
16 original motion wouldn't be the same as the success of her substitute. Now (interrupted)

17

18 Chair Lauing: Ok so we got that.

19

20 Commissioner Alcheck: Ok I just wanted clarity there. Ok now (interrupted)

-
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Chair Lauing: So, let (interrupted)

Commissioner Alcheck: Now I'd like to make the comment that I'm waiting to make.

Chair Lauing: Sorry because I haven't spoken yet to the motion so.

Commissioner Alcheck: Yeah so, I'm going to respond to something. I... there's a little more nuance here regarding housing growth that I'd like to acknowledge. Our code... and please correct me if I'm wrong. It's my impression that our current Municipal Code disallows development of solely residential in our downtown. That without a mixed component of commercial you actually can't add any residential to our downtown. So, this is a little problematic because I am firmly in support of the strategy to add additional housing. I don't share the belief that commercial office space is more lucrative simply because it's commercial. I think our code has created incentives that allow commercial projects to be of great intensity and thus reap greater rewards. If our residential projects could have that same advantages I think we would see a lot of more residential projects. One of those disadvantages is that our residential projects have to incorporate some mixed-use or they can't come forward. Am I right about that?

-
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1 Ms. French: In the CD Zone that's correct. Some of the downtowns like RT, the SOFA area is
2 different.

3

4 Commissioner Alcheck: Some of that is inclusive but most of it. So, I mention that only because
5 if for example, we had considered a moratorium on any of those uses then we would also be
6 considered as our law is currently written a moratorium on residential because our residential
7 is handicapped by this requirement. I am satisfied if this Commission decides to further the
8 recommendation that's currently on the dais simply because again, I think this is a decision... a
9 discussion that we've had and we've expressed points of view on it. We really need the Council
10 to tell us what is it exactly you intended or what is it that you now intend? I think regardless of
11 what the Council decides on this when the citizens vote in November if the citizens of this great
12 community decide to half the City-wide cap then that is the purgative of our citizenry. And that
13 effort shouldn't be preempted. I don't think telling us providing clarity here would do that but I
14 will say this if the... and I'll just... I'll direct these comments to Council. If you elect not to make
15 the change and retain the cap we really need Staff to address the issue of the requirement that
16 our residential include a component of commercial because without addressing that we are
17 allowing the code to essentially restrict residential development. And that is a huge concern of
18 mine.

19

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1 I want to just say one additional thing. I don't feel that we have really enough information to
2 address the impact of this element on the President Hotel situation. We haven't been informed
3 about it and it's not... it's... I know probably far less about it than most of you who are living
4 there.

5

6 Chair Lauing: Yeah, it's not even a project, that's correct.

7

8 Commissioner Alcheck: Right and so I think it's important to acknowledge that even if... it
9 wouldn't... it probably would not be appropriate for us at this juncture to suggest some specific
10 legal policy with respect to that site. Because there is a process by which we have to be
11 informed and hear community input before making such a recommendation. So, I just want you
12 to know that I believe we share some of that concern and we feel a little unprepared to provide
13 some feedback in that regard simply because of a lack of insight and prep.

14

15 Chair Lauing: Ok.

16

17 Commissioner Alcheck: But I... again I welcome... I would welcome our Chair inviting that
18 discussion so that's what I have to say about the motion on the floor.

19

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1 Chair Lauing: So, I'd like to speak to the motion and actually my own second. First of all, as been
2 stated by a couple of my colleagues we just got this agenda item without any prior discussion
3 ever. Either up here or independently so we're reacting from the time that we got our Packets
4 delivered on Friday night to try to prep for this. Highly respect and appreciate all the input from
5 the public.

6
7 The whole point to me as I began studying this issue from the get go up to this second is timing
8 of any sort of discussion or action on the accruing cap one way or the other. A number of
9 speakers have asked what... why now? What's the rush? There isn't any. We have a common
10 pre-meeting with Assistant Director Lait and the Commissioner [note- Chair?] and Vice-
11 Commissioner [Note-Vice-Chair] and others we discussed it at length yesterday. And my
12 questions were around why are we discussing this now? Why is it even in front of us? Why
13 don't we continue this until there are some other things that are more important that we've
14 studied and taken action on called the Housing Work Plan? Which is substantial stuff that is
15 likely going to result in the need for code changes to give incentives to development of housing
16 and relaxation of standards which I think there is close to universal support on this dais for.

17
18 So, we talked about continuances and how urgent was it and unfortunately the Assistant
19 Director isn't here but I mean we agree that a continuance would be acceptable. And also, that
20 it is not particularly time-sensitive relative to existing projects or frankly anything else. So, one

-
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1 way or the other I come in tonight saying that I think we do not want to take official action on
2 the exact ordinance language that was put in front of us. A lot has changed in 18-months since
3 January 30th, 2017 when Council had these discussions. Not the least of which is again the acute
4 situation around housing and the commitment of Council to more housing of all types and
5 particularly the commitment of Council and the community to BRM and affordable housing. We
6 have got to take action on that, that takes the highest priority, that's what we need to work on
7 the rest of the year, [and] that needs to be done before we look at this thing in front of us
8 tonight in a vacuum because we don't know what the impacts are. And we don't even have
9 things in the Staff report on transportation impacts, TDMs, etc. etc. etc. There's just nothing
10 there to look at so for those two reasons the whole issue here is the sequence on addressing
11 this as is, is just wrong. We have to calculate the impacts and we have to sort out what we
12 really want to do to change the housing build rate in the City and all areas. So that has to be
13 done first and therefore this thing should not be approved, particularly since there's no time
14 sensitivity.

15

16 So, I think that we're just looking at the right technique to send that message back to the
17 Council and in support of the community. I think that the motion that's on the floor does that
18 fine because we can say we don't want to approve that now and these are the reasons why so
19 I'd be happy to support that motion. I think that we're getting, regardless of the technique,
20 close to the consensus that we're not ready to move on that now. We all want to prioritize

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1 housing and Council ought to take a second look at that in the context of what we get done
2 through the end of this year before taking a look at that cap issue in a vacuum. So, I'd be happy
3 to support the motion as it is. Other comments on that? Commissioner Summa.

4
5 Commissioner Summa: Just a specific comment but I... Staff can maybe verify that this is true. I
6 believe by using TDRs... we can use TDRs for residential so you could get buildings that have
7 quite a bit residential. Is that accurate? I think it's in the code.

8
9 Ms. French: We can get back to you further on that but we don't think there's a prohibition in
10 the code to use TDRs for residential but it just hasn't been done. It's always been (interrupted)

11
12 Commissioner Summa: Because off... yeah because most property owners are going to go for
13 commercial space but we can.

14
15 Ms. French: As too Commissioner Alcheck's point, you wouldn't be able to use it and create a
16 holey residential project in the CD Zone downtown.

17
18 Commissioner Summa: No but you have to put... in lots of CD you have to have ground floor
19 retail anyway which is protected Citywide. So, I think there's more potential than maybe my
20 colleague was thinking about at the moment.

-
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Chair Lauing: Ok if there are no other comments let's take a vote on the motion and to restate it.

Commissioner Summa: (off mic) Are we voting on mine?

Chair Lauing: We're voting on the friendly amendment that you gave to Commissioner Waldfogel which is to... if you want to give us the exact wording.

Mr. Yang: The recommendation that the Council rejects Staff's proposed ordinance.

Chair Lauing: Yeah at this time or something like that.

Commissioner Summa: Can you say that again? I can't hear you.

Mr. Yang: Sorry, it's a Planning Commission recommendation that the Council rejects Staff's proposed ordinance.

Commissioner Summa: Thank you.

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1 VOTE

2

3 Chair Lauing: Ok all in favor of that motion signify by raising your hand; four. Opposed? Zero. Is
4 there an abstention? One. 4-0-1. Do you want to speak to your abstention?

5

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

7

8 Commissioner Alcheck: Yeah, I'll just quickly restate that I think this is... I don't know that the
9 Commissioner needs to provide input here outside of the tremendous amount of input we gave
10 during the Comp Plan process. And I think Council can provide us the clarity without our
11 direction so as to give us our greatest chance to avoid the politicization of our work during this
12 very tentious election year.

13

14 Chair Lauing: Ok, thank you. That concludes Item Number 2 and I'd like to call a recess here at
15 8:35 for about 10-minutes.

16

17 [The Commission took a short break]

18

19 3. The Planning and Transportation Commission Will Review and may Amend the PTC
20 By-Laws and Procedural Rules. (Continued from June 27, 2018)

21

22

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