



Planning & Transportation Commission Action Agenda: February 24, 2021

Virtual Meeting
6:00 PM

Call to Order / Roll Call

Approximately 6:01 pm

Chair Hechtman: And with that, I will call this meeting of the Planning and Transportation Commission to order and ask Mr. Nguyen to conduct the roll call.

Mr. Vinh Nguyen, Admin Associate III: Chair Hechtman?

Chair Hechtman: Present.

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

Commissioner Alcheck: Present.

Mr. Nguyen: Commissioner Lauing?

Commissioner Lauing: Present.

Mr. Nguyen: I think I heard a present there.

Commissioner Lauing: Yes.

Mr. Nguyen: Commissioner Summa?

Commissioner Summa: Present.

Mr. Nguyen: Commissioner Templeton?

Commissioner Templeton: I'm here.

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

Chair Hechtman: Thank you.

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1 **Oral Communications**

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

3 Chair Hechtman: We are now moving onto oral communications. This section is for the public to
4 speak on items, not on tonight’s agenda. Please raise your hand if you wish to speak. On the
5 Zoom App, there is a raise hand button on the top of your screen. If you’re dialing in from a
6 phone, press *9 to raise your hand. Mr. Nguyen, are there any public speakers for Oral
7 Communication?

8
9 Mr. Vinh Nguyen, Admin Associate III: Yes, we currently do have one raised hand. Our first
10 speaker will be Rebecca.

11
12 Ms. Rebecca Eisenberg: Hey there, I hope you are doing well, and thank you for taking my
13 comment tonight. I just wanted to say that I was at the City Council meeting just the other
14 night, Monday night, and the City Council made a really important point, several important
15 points, that I hope that you all will consider. Maybe on the top of your mind as you continue to
16 move forward and consider these applications and that point was really about sustainability
17 and the urgency of sustainability. You’re probably aware that the City Council and City of Palo
18 Alto has a Sustainability Plan, but that plan is really contingent on us not moving backwards in
19 big ways but rather being consistent with current measures, current approaches, not making
20 big acceptations to the rule.

21
22 And you know there’ve been some issues that come before you all where it’s kind of like
23 sustainability wasn’t something that the City had considered at all and so maybe that’s why you
24 all didn’t either. Giving you the benefit of the doubt. One example, of course, is Castilleja’s
25 proposed underground garage and the 80 or so private cars that Castilleja intends to have
26 parked there. For us to reach the 80 ’20... the 70 ’30 Goal, I wish it were 80 ’20, too late for
27 that, that the City seeks to reach. We can’t move backwards in terms of single-use vehicles. I
28 mean we just can’t. Single occupancy vehicles and it is well established that in creating parking
29 lots, creating parking garages, cause more cars to be on the roads. Especially when something
30 as other alternatives are extremely readily available. Such as the case with Castilleja which is
31 located within blocks of public transit spots. I mean if there’s any City that doesn’t... any school
32 that doesn’t need an underground parking lot, that’s Castilleja. Yet, you all didn’t seem to even
33 bat an eye on that, even though the plan involves destroying 150 ancient trees, which can’t be
34 moved and can’t be replanted. It also includes raising to the ground a lot of existing structures,
35 including a dormitory that could be used for housing. So, we know that housing removes cars
36 from the road, office space puts it there. Let’s be more mindful please when you consider
37 applications. Thank you so much on behalf of our plant.

38
39 Chair Hechtman: Are there any additional public speakers, Mr. Nguyen?

40

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1 Mr. Nguyen: There are no more raised hands, so that concludes public comments for this item.

2 **Agenda Changes, Additions and Deletions**

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

4 Chair Hechtman: Members of the Commission, are there any agenda changes, additions or
5 deletions anyone would like to daylight? Seeing none.

6 **City Official Reports**

7 1. Directors Report, Meeting Schedule and Assignments

8 Chair Hechtman: We'll move now onto City Official Reports. Ms. Tanner, do you have a report
9 for us?

10

11 Ms. Rachael Tanner, Assistant Director: Thank you, Chair Hechtman, Commissioners. Good
12 evening. Just a few items to report. One that I want to remind everyone of, I believe we talked
13 about this last time, is we are now recruiting for our Housing Element Working Group. So, I'm
14 sharing a flyer we have here about our working group asking folks who are interested to please
15 apply to serve. This working group is going to be a big difference in our City by way of helping
16 shape housing policy in our community. We are seeking to have a diverse group that are
17 representative of all of Palo Alto. We have a few items listed here. Renters, seniors,
18 neighborhood associations, housing developers, service providers. That's just really a small list.
19 We couldn't fit all of it on this wonderful flyer, but we need really folks from every walks of life
20 in Palo Alto to make sure that our Housing Element is shaping the next 8-years of our housing
21 policy. It's really, really very important. Folks who are interested can go to
22 cityofpaloalto.org/heupdate, as in Housing Element update, to apply. Applications are due
23 March 5th, so that's not this Friday but next Friday, 2021, and if you all know folks who would
24 be interested in serving or a good candidate. I just encourage you to reach out to them. You can
25 also provide their name or email or phone number, as they are willing to have it be shared with
26 Staff, and we can reach out. Again, we want to have a diverse group that's very representative
27 of Palo Alto. Including persons of color, young people, seniors. Making sure we really have a
28 diverse body representing Palo Alto and this group will be advising Staff and also advising the
29 City Council as we are trying to craft our new Housing Element, which lasts for the 2023 to
30 20230 Housing Element cycle. So, again, we may send this out to all of you again just to remind
31 you to send it out to any persons that you know who may be interested.

32

33 We also, just kind of on the note of housing, the draft RHNA, the Regional Housing Needs
34 Allocation, has been sent by ABAG, the Association of Bay Area Government, to the Housing
35 and Community Development Department in the State of California for their feedback and
36 review. That will come back to ABAG with any comments from HCD before they prepare the
37 final allocations for each jurisdiction in the Bay Area. They expect that that will happen
38 sometime in the spring and then appeals would be... could be filed by jurisdictions that want to
39 appeal in the summer of 2021. Something new this year, not only can jurisdictions appeal their

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1 own allocation to say we think we have a number that may be incorrect for our community, but
2 other jurisdictions can appeal another jurisdictions allocation. That's not something that's been
3 available before so we are anxious to see if that will happen and certainly how that will play out
4 in Palo Alto and the rest of the Bay Area.

5
6 Lastly, coming up in City Council, next week City Council does have a pre-screening for 3045
7 Park Boulevard which is a request for a Zoning Amendment to create an overlay on some
8 properties that are along the Caltrain station near California Avenue. And that will be a pre-
9 screening to see what Council's initial thoughts are regarding that project. Other than that,
10 there aren't any Planning or Development Service items and that's a pre-screening so it's
11 certainly something that hasn't come before this Board yet.

12
13 And the State of the City is also going to be on March 4th, 2021. I'm going to hand it now over to
14 Philip Kamhi, the Director of the Office of Transportation, who's going to provide an update as
15 well.

16
17 Mr. Philip Kamhi, Chief Transportation Official: Hello and good evening PTC Commissioners and
18 members of the public. I'm Philip Kamhi, Chief Transportation Official, and tonight I just have a
19 couple of brief items to brief you on.

20
21 One, I just want to mention that tonight the Expanded... well, just before this meeting the
22 Expanded Community Advisory Panel, the XCAP, of which Commissioner Member Cari
23 Templeton is a member of, just completed their report. And I wanted to note that it will be
24 going to City Council as a Study Session for a special meeting on... that's scheduled for March
25 23rd. And I think one of the members tonight or the Chair mentioned that I think they've had
26 something like 47 meetings. So, quite a lot of work that the XCAP Members contributed to this
27 report so and also members of the public as well.

28
29 The second one I wanted to mention, which is a project that's going to go way back for some of
30 you members who were on the Commission for a while, but we have the Churchill Avenue
31 Enhanced Bikeway Project; which was actually approved by the Planning and Transportation
32 Commission in December of 2014 and then consequently by Council in 2015. And after Staff
33 had outreached to the community, the school district, and payback, and the project seemed to
34 have some real movement but then in 2018, prior to I joined the office and the Office of
35 Transportation had quite a few Staff shortages. The project had really been put on hold and
36 now the project is back re-engaged and it restarted back in October of 2019 and the project is
37 now at 95 percent design. And last month we presented the project plan to the PAUSD School
38 Board to seek approval for the easements and had some very positive reception from the
39 PAUSD. So, I just want to... because it's been quite a long time I just want to refresh your
40 memories on this project.

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1
2 Essentially the project is connecting from the existing bicycle path that ends on Churchill, just
3 that the Pally High School entrance. So, it's kind of terminates there, runs along Caltrain, and
4 then terminates there at the entrance and then at that point, right now under existing
5 conditions, it goes up to the El Camino Real and the street. And so, the proposed modification is
6 to extend that bicycle path all the way from that area, all the way up Churchill, all the way to El
7 Camino Real where there's going to be improved crossings. And currently, there's a pork chop
8 and there's not an option for a pedestrian push button. There's actually no crossing on the side
9 of Pally on El Camino Real to connect to the Stanford Perimeter Trail. So, this would propose
10 not only a crossing on that side but pedestrian timers and eliminate the porkchop and add a
11 right turn lane which currently does not exist. So, there'd be some capacity for cars to store
12 there and it would high visibility crosswalks. Not just the one at El Camino and Churchill but also
13 at Madrono and Churchill and at Castilleja. So, quite a few safety improvements in this area and
14 so we're really excited to be moving forward with the project. And so, I wanted to update PTC
15 as it's been quite a while and the project is... it looks like everybody froze.

16
17 Ms. Tanner: I think they're back.

18
19 Mr. Kamhi: Am I back? Did I... where did leave (interrupted)

20
21 Ms. Tanner: I think you might be frozen, Philip. Now you're unfrozen at least for me so we
22 heard everything you were saying though.

23
24 Mr. Kamhi: Oh ok, excellent, right well as I'm not still unseeing anybody move so it's a little bit
25 strange but just want to note that there's information on the project on our project page which
26 is on the Office of Transportation within the cityofpaloalto.org and Office of Transportation. It's
27 called the Churchill Avenue Multi-Modal Improvement Project.

28
29 Ms. Tanner: Thank you and I do have one other thing to add. Thank you, Philip, for this great
30 update. It's nice to see things moving forward, even if it's been a little while. That also on the 1st
31 of March, Council will consider the appointment or reappointment of Members to this body
32 and so we look forward to that happening as well. I believe it's under special orders of the day
33 for that evening.

34
35 And the final thing I want to say, I'm involved in our City's COVID-19 response and there's not
36 really a lot of new updates. We did have some great conversations this week with businesses
37 on Cal Avenue and University. Some are still struggling but many are finding the ability to
38 restore outdoor dining is doing very well for the restaurants. The Farmers Market on Cal Ave
39 also had a new layout the last... this past weekend. Past two weekends actually and it's been
40 going very well. Both vendors and visitors are finding it to be helpful and it really is integrating

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1 the businesses that are there with the market. So, they're really building on their symbolic
2 relationship that they have.

3
4 We are looking forward to hopefully in the next few weeks that the county may move to the
5 next tier. We're currently in the Purple Tier, which again is the tier that has the most
6 widespread transmission of the COVID-19 Virus in the county but we're hoping that soon we'll
7 move to the Red Tier which does relax some restrictions for dining, retail, and other things. So,
8 please do continue to be vigilant as we sadly just passed the half-million mark in terms of
9 deaths in this country from COVID-19. And so certainly while we are all I think looking towards a
10 bright future, there are many, many families who are still grieving and sadly not having their
11 loved ones with them. So, with that, we are available for questions. I know Philip had to run this
12 evening but certainly, if you have any questions regarding his project, we can convey those to
13 the Office of Transportation.

14
15 Chair Hechtman: Commissioner Summa, did you have a question? Can you hear me? Ms.
16 Tanner, can you hear me?

17
18 Ms. Tanner: Yes, I can.

19
20 Chair Hechtman: Ok.

21
22 Ms. Tanner: I think Commissioner Summa did not have a question. She kind of shook her head.

23
24 Chair Hechtman: Ok. Alright, if there are no questions for Staff on the City Official Reports we
25 will move to the Action Items, and as we do that I will note what all the Commissioners have no
26 doubt noticed: we have a packed Agenda tonight that we will be fortunate if we can finish I
27 would say by 11 o'clock. So, I'm going to ask all of us to be succinct in our comments where we
28 can and I'll actually be providing some aides to that effect when we get to Item 4, but we will
29 start with Item Number Two.

30 **Action Items**

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

33
34 2. PUBLIC HEARING / QUASI-JUDICIAL. 640 Fairmede Ave [20PLN00203]:
35 Recommendation on Applicant's Request for a Preliminary Parcel Map with
36 Exceptions to Divide an Existing 23,000 Square Foot Parcel Into two Approximately
37 11,500 Square Foot lots, larger than the maximum allowed by the Zoning Code, to
38 Facilitate Construction of two new Single Family Residences. Environmental
39 Assessment: Exempt per CEQA 15303 and 15061(b)(3). Zoning District: R-1 Single
40 Family Residential. For More Information Contact the Project Planner Emily Foley at
41 emily.foley@cityofpaloalto.org.

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1 Chair Hechtman: It's a public hearing, quasi-judicial, 640 Fairmede Avenue. It's file 20PLN-
2 00203, recommendation on applicant's request for a Preliminary Parcel Map with Exception to
3 divide an existing 23,000-square foot parcel into two approximately 11,500-square feet lots,
4 larger than the maximum allowed by the Zoning Code, to facilitate construction of two single-
5 family residences.

6
7 Ms. Rachael Tanner, Assistant Director: Thank you, Chair.

8
9 Chair Hechtman: Do we have a Staff report?

10
11 Ms. Tanner: We do. We have Ms. Emily Foley, one of our excellent Planners here who will be
12 making the presentation. We do also have the applicant who following Ms. Foley's presentation
13 will make a presentation as well. Ms. Foley?

14
15 Ms. Emily Foley, Planner: Hi, good evening everybody. Please give me a moment to pull up the
16 presentation. As Chair Hechtman was saying, this is the presentation for 640 Fairmede which is
17 a Preliminary Parcel Map with Exceptions. This shows some context for the site. It is before the
18 PTC because it requires approval to create lots that are larger than the allowable maximum size
19 for the R-1 Zoning District. In this case, the maximum size is 9,999-square feet and the lots as a
20 result of this subdivision would be 11,855 and 11, 215 respectfully.

21
22 This image shows the block that the project is located on and as you can see the lots in the
23 neighborhood are somewhat larger than typical R-1 lots. The lots on this block, excluding the
24 existing property, range between 6,700 and 12,800-square feet. The average, not including the
25 subject property, is 11, or excuse me, 10,154-square feet. For reference, the standard for the
26 Zoning Code is 60-feet wide by 100-feet deep.

27
28 This shows the existing conditions for the site. It is currently a single-family house on an
29 oversized 23,000 square foot lot. It is 134 feet wide and 167 feet deep. The line that you can
30 see in the middle of the property represents a previous underlying lot line. In 2016 there was a
31 lot line adjustment and the rear portion of the site was transferred from the property to the
32 rear which is 639 Arastradero to the 640 Fairmede Avenue property.

33
34 This shows the proposed subdivision. It would be two lots to facilitate two single-family houses.
35 Currently, the applicant plans on building one-story houses which would require only a Building
36 Permit. No additional planning entitlement and then this shows the dimensions and area of the
37 two lots.

38
39 When considering approval of the project it is important to consider that the properties would
40 be a consistent size with other lots in the neighborhood. It also meets the Findings for an

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1 Exception for the lot size and additionally, the new lots would be more in compliance with the
2 Zoning Code than the existing 23,000-square foot lot and as a result, the City would gain at least
3 one new housing unit.

4
5 Staff recommends that the PTC recommend approval on the project and that concludes my
6 presentation. As Rachael mentioned, we have the applicant, Mike Ma, here today to talk about
7 the project and answer questions as well. Thank you.

8
9 Chair Hechtman: Thank you, Ms. Foley. Before we go to Mr. Ma, I want to find out if any of the
10 Commissioners have any questions for you regarding your Staff report?

11
12 Mr. Albert Yang, Assistant City Attorney: Chair Templeton [note – Chair Hechtman] this would
13 possibly be an appropriate time for any disclosures because this is a quasi-judicial item.

14
15 Chair Hechtman: Thank you, Mr. Yang.

16
17 Commissioner Templeton: I'm not sure Mr. Yang, you were addressing me or Chair Hechtman. I
18 do live nearby in the adjacent neighborhood to this property but I was informed by Mr. Yang
19 that no recusal would be necessary.

20
21 Chair Hechtman: Thank you, Commissioner Templeton. Any other disclosures or questions of
22 Staff? I'm not seeing any hands raise so I will open the public hearing and call on the applicant.
23 And Mr. Ma, under our rules, you have up to 15-minutes, welcome.

24
25 Mr. Mike Ma: Alright, thank you, Commissioner, good evening. I am Mike Ma, I'm the architect
26 on this project for the property owner Ms. Catherine Shen. So, as Emily did a very good
27 presentation and thoroughly detailed information. This is the best way we can try to figure out
28 dividing the large lot, like this, to a more comparable parcel similar to the neighborhood. So, I'm
29 here to answer any of the question as well as the property owner, Ms. Catherine Shen, is also
30 available. Thank you.

31
32 Chair Hechtman: Thank you, Mr. Ma. This is the point where we would take comment from
33 other members of the public and so we'll open the floor for that purpose. Raise your hand if
34 you wish to speak. On the Zoom App, there's a raise hand button on the bottom of your screen
35 and if you're dialing in from a phone you press *9. Mr. Nguyen, do we have any public speakers
36 for this item?

37
38 Mr. Vinh Nguyen, Admin Associate III: Yes, we do have one raised hand and our speaker will be
39 Rebecca. Just one moment please for the timer. Madina, if you're there, can you please put up
40 the speaker timer? Ok, our speaker will be Rebecca.

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1
2 Ms. Rebecca Eisenberg: Hi there, I just want to say that your time is being totally wasted. The
3 answer to this is obviously this needs to be approved but the City Staff again had a pretty kind
4 of braindead report. Sorry, not sorry. The recommendation is to make an exception in this rule
5 so backing up, here's what's going on. Homeowner... property owner owns a parcel that is, I'm
6 just going to round, 25,000-square feet. Property owner wants to divide 25,000-square feet
7 into two smaller parcels that are 12,500-square feet each. City says, uh oh, you need an
8 Exception, you need a Variance because the result of your division is bigger than the maximum
9 allowed. So, what's going on here is that the law as written actually leads to a result where
10 25,000-square feet is preferred to 12,500-square feet when the actual legal minimum is under
11 12,500-square feet. Do you understand what I'm saying? That is literally a huge waste of your
12 time because the policy is clear that there's a maximum lot size and between 25,000-square
13 feet and 12,000-square feet, clearly public policy weighs in favor of 12,000-square feet. So, the
14 law is written poorly so what Mr. Lait should have done in his memo is he should have directed
15 this to Molly Stump's office. If she had a competent land use attorney or someone who could
16 write, who would then change this, the wording of this Zoning Code, to say that any subdivision
17 that results in a smaller size lot that is closer to the legal maximum than the original does not
18 have to go before you because it's clearly intended by the overall Zoning Code. In other words,
19 this never should have had to come before you. This is a clear obviously yes. I'm troubled that
20 this report had to be written, that your time had to be wasted, that the homeowner actually
21 had to undergo the stress of doing this when common sense and legal precedent and
22 everything else. It just leads us to an obvious yes. The problem here is that the law is written
23 poorly, the law needs to be clarified. No one should ever have to come before you if they're
24 subdividing a lot that's... to make it smaller. It's in the context of a maximum lot size, not a
25 minimum. I hope you agree. Thank you.

26
27 Chair Hechtman: [unintelligible – no audio], Ms. Eisenberg. Mr. Nguyen, are there any other
28 public speakers on this item?
29

30 Mr. Nguyen: There are no more raised hands so that concludes public comments for this item.
31

32 Chair Hechtman: [unintelligible – no audio] and I believe under our process the applicant is
33 entitled to final word. So, Mr. Ma, if you feel like there's anything you would like to add, now is
34 the time to do that.
35

36 Mr. Ma: Yeah, I don't have anything to add, but a question from any Commissioner are
37 welcome. I'm happy... again, I'm happy to answer any of the questions. Thank you.
38

39 Chair Hechtman: [unintelligible – no audio] Mr. Ma. So, I would like to start there and find out if
40 any of our Commissioners do have questions for Mr. Ma. Please raise your hand if you do. I am

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1 not seeing any hands so I will thank you Mr. Ma and we will move to Commissioner
2 deliberation. Are there any Commissioners that would like to step up and speak first?
3 Commissioner Alcheck.

4

5 MOTION

6

7 Commissioner Alcheck: Thank you, Chair. So, I don't think there's any rationale or even sensible
8 reason not to recommend that Council approve this Subdivision request. Before I make a
9 motion for such a recommendation I do want to highlight that this is a prime example of what
10 our zoning framework in some respects lacks. And because we're going to talk about our
11 Housing Element in the next section, I just think it's a good opportunity to make that point and
12 other more progressive communities in the Bay Area, of which there are too many, alternative
13 more flexible housing options would be possible on a parcel like this one. There are modern
14 interpretations of what some would call a tri-plex or quad-plex arrangement that would be
15 possible on a parcel like this in a zoning framework that we don't have. And so, as we endeavor
16 to populate this Housing Element Committee and we begin to have these discussions over the
17 next couple years. There are great articles about, for example, in Berkley where they take a
18 parcel just like this one and instead of subdividing it. They will... they have the flexibility in their
19 code to allow them to develop three residential structures on the lot that share, for example,
20 some common areas. Maybe one pool instead of two, which would easily be possible on this
21 lot. Maybe a shared garden. These more flexible approaches to housing are, in my opinion, a far
22 better use of 23,000-square feet and I imagine that if that opportunity existed, maybe the
23 architect and maybe the owner would consider it because I'm sure it would also make more
24 financial sense for them if they could build three homes that are 3,000-square foot each as
25 opposed to two homes that are 5,000-square foot each.

26

27 And so yeah, I support this because this is the best we can do. Unfortunately, it's not the best
28 that can be done and so as we begin to contemplate where our code should go from here. This
29 is the chance. These 24, 28, 35,000-square foot parcels that litter Palo Alto should be more
30 amenable to what I would call a modern quad-plex which is not basically a big building with
31 four different entries. It could be three different structures that are really carefully placed on a
32 property in a way that fits in. So, anyway, with that, I'd like to move that we recommend
33 approval of this application to City Council.

34

35 SECOND

36

37 Commissioner Summa: Second.

38

39 Chair Hechtman: We have a motion from Commissioner Alcheck and a second from
40 Commissioner Summa. Thank you for that. Any of the Commissioners want to... well, we have a

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1 motion and second so I'll, I guess, push it back to Commissioner Alcheck to see if you need to
2 speak further to your motion? No. Commissioner Summa, do you have comments regarding
3 your second?
4

5 Commissioner Summa: No, only that I think we should accommodate other Commissioners
6 opining on the issue. The motion came early but I'm happy to second it.
7

8 Chair Hechtman: [unintelligible – no audio] That was my intent. Thank you, Commissioner. So,
9 Commissioners Lauing and Templeton, would either of you like to weigh in on this?
10 Commissioner Templeton.
11

12 Commissioner Templeton: Sure, thank you. I was trying to figure out what are the available,
13 flexible options. I know we have cottage courts and things like that in other parts of Palo Alto
14 where larger lots have been turned into multiple units, but I wasn't super clear if that was an
15 option in this case or if it's still an option? A lot of those cottage courts are older so I totally
16 understand if this is the direction that the property owner would like to go but I echo
17 Commissioner Alcheck's comment that wouldn't it be lovely if we had a little bit more flexibility
18 to offer property owners if they wanted to add more properties like this to large lots. Thanks.
19

20 Ms. Tanner: Chair Templeton [note – Commissioner Templeton], if you'd like we can have Ms.
21 Foley address the question regarding the cottage courts if you would (interrupted)
22

23 Commissioner Templeton: That would be wonderful. Thank you.
24

25 Ms. Foley: So, I believe that in the R-1 District the only option would be that obviously there's
26 capacity to add ADUs. So, ultimately, they could have the three units that consist of the main
27 house, a detached ADU, and an unattached Junior ADU. Part of... it depends... throughout the
28 City there's a couple different ways that cottage clusters are set up. Several of the ones that
29 I've seen have the rear properties as flag lots and our Subdivision Code does prohibit creating
30 new flag lots. So, that is one barrier to that type of development.
31

32 Commissioner Templeton: Thank you for weigh in on that. I know that we have a few that while
33 they're older when they get renovated because they were created in R-1 Zones, that they have
34 to remove those additional properties and turn them into R-1 for the renovation; which is kind
35 of... one, it says that there have been cottage courts and cottage cluster in R-1... what are
36 currently R-1 Zones, but two, this might be something we can ask City Council to consider
37 revisiting or sending back to us for further study. So, just wanted to point out that this is an
38 opportunity because we look at this lot and see a lot of potential and would love to be able to
39 address that for future opportunities. Thank you.
40

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1 Chair Hechtman: Thank you. Commissioner Lauing.

2

3 Commissioner Lauing: Yes, I was ready to either make the motion or second it. So, I'm in
4 agreement here and it is within the Zoning Code. I think relative to where we are it's actually
5 better that we have a net increase of one housing unit so I support it.

6

7 Chair Hechtman: Thank you. I also will be supporting the motion and I just would like to clarify
8 for members of the public and the applicant. Sometimes our processes may seem cumbersome
9 but it's the way our code is laid out and so where we have, as for example here, a maximum lot
10 size of 9,999-square feet, that actually serves a purpose, an important purpose, within our Code
11 because as much as some people like to take land and subdivide it, there are some people in
12 our jurisdiction that would actually like to put parcels together and actually reduce our housing
13 stock. And so that 9,999 figure is protective of keeping our parcels small and keeping them
14 available for housing and unfortunately because here the lot is more than 20,000-square feet,
15 the resulting lots are bigger than what we say the maximum is and so that's why we have this
16 Exception process as a relief valve where something clearly makes sense, but it would be
17 technically not in compliance with our codes. So, and I like that structure of our code, but I can
18 appreciate that sometimes people would say well, do you even have to talk about it? It's so
19 obvious. So, with that, I will call for the vote. Oh, sorry, before actually before I do that I am
20 now seeing two hands raised so let me check in on those. Commissioner Alcheck.

21

22 Commissioner Alcheck: Quick question, did I... I didn't know that. That's new information for
23 me, that idea that you can't create new flag lots in Palo Alto. Is that true? So, just (interrupted)

24

25 Ms. Tanner: Sorry, just to answer orally for the record. The code does prohibit the creation of
26 new flag lots.

27

28 Commissioner Alcheck: So, just a quick question here. If we're looking at Packet Page 13, if for
29 example the lot behind 640, 639, wanted to subdivide and create new housing units. It
30 wouldn't be able to create some sort of flag lot and split that what I... what looks like a giant lot
31 into... that wouldn't be... this subdivision (interrupted)

32

33 Ms. Tanner: You mean the lot on the other... on Arastradero?

34

35 Commissioner Alcheck: Yeah. I'm just I'm not sure... just sort of curious. So, is the... is there a
36 way around a flag lot rule, or is there... is it... we define flag lots as like an easement process or
37 is there some sort of minimum street frontage that we require of all lots?

38

39 Ms. Tanner: Mr. Yang can probably respond in terms of the general rule. I think we do have...
40 we did have recently the case though, you may remember, of the historic home where there

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1 was a... it was an existing flag lot condition and we allowed that condition to remain in order to
2 create... we subdivided it. This was Ms. Reybold's project, the historic homes are being retained
3 and I believe being renovated and so that was a case I think. I don't know if it was technically an
4 Exception in the same way that this Parcel Map Exception is being made but that was a rare
5 instance where that was allowed to persist. Mr. Yang, did you want to comment on
6 (interrupted)

7
8 Commissioner Alcheck: Let me withdraw the question because I don't want to take up time
9 right now, but I will just highlight, this is an example of a technical issue that would potentially
10 affect future subdivisions like this one that I imagine 639 would comply with; which is why
11 when we have these discussions later on. We go what's stopping us from creating more housing
12 units? Rules like no new flag lots might be part of the problem and so just keep that in your
13 mind when we get to the time we can have that discussion.

14
15 Ms. Tanner: Great. Well, we have our Senior Housing Planner here listening for the next item so
16 I know MP's taking notes on this as I have been chatting with him saying these are
17 [unintelligible](interrupted)

18
19 Commissioner Alcheck: Maybe there's a good reason we [unintelligible] at a later date.

20
21 Ms. Tanner: Absolutely.

22
23 Chair Hechtman: Commissioner Summa. Your hand is up Commissioner Summa.

24
25 Commissioner Summa: Thank you. Just to address Commissioner Templeton's interest in
26 cottage clusters. I did want to draw attention to Policy L-3.3 in the Comprehensive Plan which
27 encourages retention of cottage clusters and also wants to encourage considering this type of
28 development. It never... it hasn't made it into the Municipal Code but it is in the Comp Plan and
29 that was something that was dear to my heart as a Comp Plan person. So, the intention is there
30 and it is something that this body could look at as a policy in the future for Municipal Code
31 change.

32
33 Commissioner Templeton: Thank you. That would be great to connect those dots.

34
35 VOTE

36
37 Chair Hechtman: Well, we have a motion to adopt the Staff recommendation. Mr. Nguyen,
38 please conduct a roll call vote.

39
40 Mr. Nguyen: Commissioner Alcheck?

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Commissioner Alcheck: Aye.

Mr. Nguyen: Chair Hechtman?

Chair Hechtman: Aye.

Mr. Nguyen: Commissioner Lauing?

Commissioner Lauing: Yes.

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

Commissioner Summa: Yes.

Mr. Nguyen: Commissioner Templeton?

Commissioner Templeton: Yes, thank you.

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

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

Chair Hechtman: Thank you and thank you to my fellow Commissioners for an efficient agenda item. Let's try again with Item Number Three tonight.

Commission Action: Motion by Alcheck, second by Summa. Passes 5-0

3. Review of the 2020 Comprehensive Plan Annual Progress Report and the 2020 Housing Element Annual Progress Report. Environmental Assessment: Exempt pursuant to CEQA Guidelines Section 15061(b)(3).

Chair Hechtman: That is a review of the 2020 Comprehensive Plan Annual Progress Report and the 2020 Housing Element Annual Progress Report. Staff report, please?

Ms. Rachael Tanner, Assistant Director: Thank you, Chair. We have Chitra Moitra and Tim Wong here to co-present with you the item. Ms. Moitra will be presenting about the Comp Plan Annual Progress Report and Mr. Wong will be presenting about the Housing Report. We've very, very, excited to have Mr. Wong. He rejoined the City after a few years learning more and

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1 experiencing housing and policy work in Mountain View. So, we were so glad to have him back
2 right in time for our Housing Element, and of course, Ms. Moitra has been working with us for
3 several years and has the privilege of working on this project and so we're very excited to have
4 her presenting tonight. We're also supported by Claire Campbell our Long-Range Planning
5 Manager who's also available for questions for this item. So, I'll hand it over to Ms. Moitra and
6 then Mr. Wong to present.

7

8 Ms. Chitra Moitra, Planner: Good evening, Commissioners. Just give me a second to share my
9 screen. Can you see my screen?

10

11 Chair Hechtman: Yes.

12

13 Ms. Moitra: Ok. So, good evening Commissioners, I'm Chitra Moitra, Planner, Long-Range
14 Planning section. Tonight, we are presenting two annual reports... annual progress reports. First
15 is the Comp Plan Annual Progress Report which includes 410 policy... Programs included in the
16 Implementation Chapter of the Comp Plan. That is Attachment A of your Staff report. And the
17 second annual progress report we are presenting is the Housing Element Annual Progress
18 Report and that contains 72 Programs along with City's compliance and accomplishments
19 towards the Regional Housing Need Allocation, RHNA numbers. So, as Rachael said, I will be
20 doing the Comprehensive Plan portion of it and Tim Wong, our Senior Housing Planner, will be
21 doing the Housing Annual... Housing Element Annual Report part of it.

22

23 So, why are we preparing this report? What is the need for this? Government Code Section
24 65400 requires that every jurisdiction has to prepare annual reports on the Comprehensive
25 Plan and the Housing Element and present it to the legislative bodies and further and future
26 submittal to the Office of Research... Office of Planning and Research, which is OPR, for the
27 Comprehensive Plan and HCD, Department of Housing and Community Development, for the
28 annual Housing Element Report. And as I mentioned before the Comp Plan APR has the
29 program implementation status and the Housing Element APR has the program implementation
30 status and City's progress towards the RHNA goals and list of Building Permit activities which
31 was issued in 2020.

32

33 So, as I said, these 410 Programs are... below to different elements of the Comp Plan, and here
34 is the rundown of the number of programs by the elements. So, as we can see, the Land Use
35 Element has 63 Programs, Transportation Element has 87 Programs, Natural Environment has
36 109, Safety has 80, Community Services and Facilities have 42 Programs, Business and
37 Economics has 14 and the last one, Governance, has 15 Programs in them.

38

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1 So, how do we assess these Programs? So, what we do is in December of every year Planning
2 Division Staff sends out all the policies and programs to the different departments responsible
3 for implementing them. And these departments assess these individual programs based on
4 these three following criteria. The number one is the priority of the Program which says that
5 whether the Program is a short-term, medium-term, or long-term Program or is it a routine
6 Program. The second criteria is the level of effort required to implement the Program. This is
7 the... in your Attachment A, this is the column which shows dollar signs next to it, and of course,
8 the dollar sign has nothing to do with the fiscal implications or the cost of the Program, but it
9 denotes the complexity of the Program or the effort which is required to execute the Program.
10 So, one-dollar sign means small, two means medium, and three means the program requires a
11 large effort. Meaning a lot of City departments have to contribute to that and the third status is
12 the status of the Program which says whether it's complete, whether it's particularly complete,
13 whether it's an on-going Program, or whether it's pending.

14
15 So, as we can see that based on the information which Staff has received from the different
16 departments. We can see that this year, 2020, we have completed 16 of the Programs, which is
17 only 4 percent, there is ongoing Programs is 267 of those Programs are ongoing and partially
18 complete is 32 and pending is 95. Here I would like to mention that yesterday we had a very
19 good question from our Chair that last year in 2019 we reported that we had 34 Programs
20 which were complete and how come this year we only have 16? So, I should point out that this
21 is not a cumulative figure. So, what happened was last year the 32 Programs which we saw as
22 complete, of those 34, 19 of those Programs have got the status of ongoing this year. That's
23 because you know how the Programs are... the language of the Programs are... it is a little bit
24 flexible so it gives us... it can be regarded as an ongoing project. Sometimes what happens is the
25 task of the Program is to implement... is to work on an ordinance and what happens is that in
26 2019 Staff may have worked on the ordinance, but from 2020 it is... the ordinance is being
27 implemented. That's why the status of this has changed from complete to ongoing. And also, I
28 might add to this is that this is the third year only we are doing this kind of reporting after the
29 Comprehensive Plan was adopted in 2017 and we are also defining our tasks. We are looking
30 into individual programs and seeing how they can be refined and so that's why you see the...
31 each year there is a difference in the reporting a little bit and because of this refinement.

32
33 So, the next slide is the Program status by departments, and here are examples. So, 65... five
34 departments, how they have done in terms of the Programs status meaning how many they
35 have completed, how many is ongoing, and how many Programs are pending. And we can see,
36 the completed... the number of completed Programs this year is really, really low but we have a
37 lot on the pending Program list and partially completed Program list. This is because... primarily
38 because of the effect of COVID-19 Pandemic which has led to resource constraints. So, that's
39 why this year in general we see these numbers are higher for pending and partially completed.

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1 So, this concludes the Comp Plan portion of my presentation and I'm... Tim is ready with the
2 Housing Element 2020 Implementation so over to you Tim.

3
4 Mr. Tim Wong, Senior Housing Planner: Hello. Ok, thank you, Chitra, so good evening
5 Commissioners. Again, my name is Tim Wong and I'm the Housing Planner for the City and I
6 would like to say before I begin my presentation regarding the 2020 implementation status of
7 Housing Element Program and RHNA. I just want to highlight two revisions I would like to point
8 out to the Commission. In the Packet, in your PTC Packet, on Page 124, Attachment B, Housing
9 Program 3.1.13, that's 3.1.13, should be labeled ongoing and not partially complete. And also,
10 on Page 28 of your Packet under... which is Page 6 of the Staff report, under the summary of
11 status of Programs, there should be 34 ongoing Programs and not ongoing Programs and 22
12 complete Programs. Your Staff report says 35 ongoing Programs and 21 complete Programs.
13 And please note the revised summary includes the change in status to Program 3.1.13.
14 Apologizes, I miscounted the Programs for each of the categories, hence I apologize for any
15 confusion from the miscount. I just got here and I'm already miscounting Programs so my
16 apologies, but Chitra, if you could next slide, please.

17
18 So, we are in year six of our 8-year cycle, so that 75 percent through this part... the fifth cycle of
19 RHNA. And the City's RHNA for this cycle is 1,988-units and happy to report that the City added
20 178 net new units for 2020. And of those 178-units, 58 are the affordable units at Wilton Court
21 and with the 178 new units, all together we've achieved about 37 percent of our total RHNA
22 which I'll go into a little bit more detail at the next slide and that includes 92 percent of the
23 above moderate requirement and just as reported, 75 percent of Housing Element Programs
24 have been implemented. That includes the completed and ongoing Programs so Chitra, next
25 slide.

26
27 So, here is our breakdown of RHNA. Excuse me, I should back up, our Regional Housing Need
28 Allocation which we call RHNA, and you can see our break per different income categories and
29 so next slide, please.

30
31 And so here is our all 6-years of production for this 8-year cycle. As you can see in 2020 we
32 added 58 deed-restricted units at Wilton Court and 120 above moderate units and so you can
33 see the breakdown. Again, we have almost met our above-moderate RHNA, however, there are
34 still some units remaining in our very-low, low- and moderate-income categories. Next slide,
35 please.

36
37 And so, this is just to show a summary of our progress goals. In the left-hand column is our
38 1,988 RHNA allocation. We've done 732-units up to this point which leads to that 37 percent
39 accomplishment toward our allocation and again we are 75 percent... year six 75 percent
40 through.

-
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1
2 And so, this slide shows we have 72 Programs as Chitra mentioned in the Housing Element, and
3 on the right-hand side of the slide is the breakdown of those Programs that are ongoing,
4 completed, underway, and not completed. And as mentioned, 77 percent of the Housing
5 Element Programs have been completed or implemented if you like. Next slide, please?

6
7 And so, two conclude, Staff, recommends that the PTC review the 2020 Comprehensive Plan
8 Annual Progress Report and the 2020 Housing Element Annual Progress Report, and also
9 recommend City Council authorize transmittal of these reports before April 1st, 2021. So, that
10 concludes our presentation, and happy to answer any questions that the Commission may
11 have.

12
13 Chair Hechtman: Thank you, Mr. Wong and Ms. Moitra. Are there any Commission questions
14 for our Staff members before we go to public comment? Commissioner Lauing.

15
16 Commissioner Lauing: Yes, yeah, just before we go to public comment, I think it's important to
17 note that we're not asked tonight to do anything besides review this and transmit the report.
18 So, it's not a debate about what things should be moved up or down, so the public who's
19 participating understands that.

20
21 I'm going to ask a question, if it's not appropriate until you have public comment you can rule
22 this out but I just wanted you to take a look at your Packet Page 25 on the Comp Plan. And
23 basically, we're 75 percent through the cycle and the stuff that is complete or partially
24 complete is, let's see, 38 percent, 31 percent is left to go. The general question is do you have a
25 big picture about how you're going to close the gap in the remaining years of this or if you
26 can't, what are the repercussions if this goes to the state and there's a lot of stuff that's
27 missing? So, again you can address that now per the Chair because I think that would be
28 important to public comment to understand as well or we can hold it.

29
30 Chair Hechtman: Commissioner Lauing, if I could just clarify [unintelligible - audio disturbance].
31 Did you refer to Packet Page 25?

32
33 Commissioner Lauing: Yes.

34
35 Chair Hechtman: And 34 percent? I'm not seeing that figure.

36
37 Commissioner Lauing: So, this is under the... just under the summary; the partial, complete and
38 ongoing and so on. Ongoing of course is a whole kind of a semi-black box to us but there's 95
39 that are pending, which I guess means we haven't really started on them yet, and partially
40 complete are 32. So, in general, my question is we're not 75 percent of the way there in terms

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1 of getting all this stuff done and the question is just what are you feeling like going forward? Do
2 we have to throw Staff at it now that we have Staff and can prioritize it instead of COVID-19?
3 We're going to be ok in 2-years or if not, then what are the repercussions?
4

5 Chair Hechtman: Ms. Moitra, would you like to address (interrupted)
6

7 Ms. Moitra: Yes. Yes. First of all, I should say that this is a very pretty young new Comp Plan and
8 it's only adopted in 2017 December. So, the number of... the achievement you see right now is I
9 understand it's not that great but we would be getting there because the 10-year of the Comp
10 Plan is still 2030. And we are being optimistic and we think we would be close, if not there, and
11 of course, this year the numbers you see as I said is a result of the COVID effect. And a lot of
12 these Programs are actually pending because of resources and a lot Programs has been... has
13 started last year, but it's under... have been stopped and because of funding and other issues.
14

15 Ms. Tanner: To also add Commissioner Lauing, that the Comp Plan and the Housing Element are
16 on different timelines.
17

18 Commissioner Lauing: Right.
19

20 Ms. Tanner: So, while we're 75 percent of the way through our Housing Element, we are not 75
21 percent of the way through the Comp Plan period as Ms. Moitra pointed out and so as you do
22 see, it also spans the City. We're fortunate in planning that we haven't had to lose any Staff due
23 to budget cuts. We'll see how this next budget goes. We may lose some unstaffed positions and
24 certainly, our ability on our long-range planning side has been diminished to use extra
25 resources. So, other departments may not have been as fortunate in their retention of Staff to
26 complete their projects so.
27

28 Commissioner Lauing: Exactly what I was looking for was just kind of your sense looking forward
29 of where we stand and how we're going to get there so thanks very much.
30

31 Chair Hechtman: Thank you. We are now going to open the floor for public comments. Please
32 raise your hand if you wish to speak. On the Zoom App, there is a raise hand button on the
33 bottom of your screen. If you're dialing in from a phone, please press *9. Mr. Nguyen, it
34 appears that there's at least one public speaker for this item.
35

36 Mr. Vinh Nguyen, Admin Associate III: Yes, we do have one raised hand. Our speaker is Rebecca.
37

38 Ms. Rebecca Eisenberg: Hi there, thanks again. First of all, I'm a little confused. Granted many
39 of us here in Palo Alto were valedictorians of our high school class and Phi Beta Kappa in college
40 but I think under any kind of grading scale, 15 percent is a failing grade. So, backing up a little

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1 bit, from this presentation it appears that you use the former RHNA allocations and not the
2 current, which maybe is appropriate to measure your success but seems a little bit
3 inappropriate because you can't... you really should then be able to argue that you didn't know
4 that bigger allocation where coming. So, maybe it makes more sense actually to change the
5 goals now because even less failing now is hugely failing once these numbers are updated.
6

7 Second, I was confused because I looked on the ABAG site and also on the site for the State of
8 California and these reports aren't yet vetted and approved. So, if I understand, and again you
9 can clarify and I welcome that. It appears that what you just presented to us is Palo Alto's
10 opinion that has not yet been approved by ABAG or the State of California about how much the
11 developments that you're pointing at should count as ABAG approve developments. I think that
12 a more honest presentation would have been mindful of that.
13

14 Third, I'm a bit taken back and angered by the pointing of fingers and the statement that there
15 wasn't money available to build affordable housing. As you've heard me say for a year, the
16 State of California through the Home Key Program and other programs that are part of the
17 California Department of Housing and Development gave away in year 2020 almost a billion
18 dollars. Gave away a billion dollars to other local governments for the purpose of building
19 affordable housing without spending any taxpayer money. And last time I talked to Ed Shikada
20 about, which is fairly recently, about why Palo Alto didn't apply for that free money. He said
21 that the City didn't want to. So, there's some big problems here and 15 percent is not success.
22 Please work harder. Thank you.
23

24 Chair Hechtman: Thank you. Mr. Nguyen, are there additional public speakers for this item?
25

26 Mr. Nguyen: There are no more public speakers for this item.
27

28 Chair Hechtman: Then we will move to Commission discussion and I'll... as I wait to see
29 Commissioner's raise their hand, I will ask Mr. Wong to remind me of the time period for the
30 current RHNA cycle and then the time period of the next RHNA cycle, the unit numbers for
31 which has recently been announced.
32

33 Mr. Wong: So, thank you. We are in the fifth cycle which runs from 2015 to 2023 and then as
34 part of the Housing Element Update, which is the sixth cycle, that will run from 2023 to 2031.
35

36 Chair Hechtman: Alright, Commissioners? I'm not seeing any hands. Would anybody like to
37 make any comment on either of these two updates? While you're all cogitating I will just make
38 a couple of observations. One about each of them.
39

-
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1 First, as to the Comp Plan, I marvel that our Staff across the departments can coordinate and
2 handle, and move forward on 410 Programs and projects. It's an awesome responsibility and
3 the fact that they track it and are moving them forward I think it reflects well on the entirety of
4 our Staff. So, I want to thank Staff for their work in moving all of those things along because
5 they're all directives of our Comp Plan, and then turning to the Housing Element update, I think
6 what's instructive about that update is the fact that 75 percent through the process we have in
7 the lower three categories a maximum of 15 percent completion. Really reflects a need that we
8 have... that this Commission has talked about in multiple forums but it puts statistical strength
9 behind the fact that the Programs and processes we have to try to encourage low, very low,
10 and moderate... below-market housing, they're not being particularly successful. Whether we
11 hit the RHNA numbers or not, those numbers are low and so we have to I think continue to be
12 vigilant and aggressive in looking for ways to provide more affordable housing in the City.

13

14 So, if... I don't see any Commission... any Commission hands and I do now. Commissioner
15 Alcheck.

16

17 Commissioner Alcheck: So, I have a question for Staff. Of the 1,988-units that RHNA allocated
18 us for this period that ends in 2023. What were the number of units that we found sites for?

19

20 Ms. Tanner: Tim, if you want to show their table or maybe it's Chitra. So, are you asking about
21 the housing opportunity sites overall or the sites that the housing... the units that have been
22 the Building Permit issued?

23

24 Commissioner Alcheck: So, what I'm suggestion... so, ok, I don't think this is a common
25 misconception among the members of this Commission, but and so, I think we all know for
26 example that the... we're allocated a number of units and we have to provide the opportunity
27 for those units to be built by identifying the sites within our City where those units could be
28 build. So, for example, if a site has no units on it, we identify to the state that well this site
29 doesn't have any units on it now but it could under our existing zoning provide for 100
30 residential units. We didn't develop... the requirement is that we meet and demonstrate that
31 our City has an ability to develop those units. The actual development isn't our responsibility to
32 take on financially, but it is our duty to show where those could go. And so, my question was
33 our requirement was to demonstrate that we had at least space for 1,988-units. Did we
34 designate exactly that number or did we designate a bigger number? Did we sort of surpass
35 that number and show... and put forward more than 1,988 or did... that's what I'm asking? In
36 the 2015 (interrupted)

37

38 Ms. Tanner: Yes, thank you for clarifying. Thank you, Commissioner. Mr. Wong can answer the
39 question for fortunate he was part of developing our previous Housing Element. Tim, do you

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1 recall if you... if we allocated identified realistic yield of more than 1,988-units in our Housing
2 Element opportunity site?

3
4 Mr. Wong: We did. We created a surplus if you will of approximately 200, 250 additional units
5 over the baseline of 1,988.

6
7 Commissioner Alcheck: Ok so I remember there being a surplus. I didn't remember how many
8 and so my follow-up question for you is, because I participated in that Housing Element
9 development. My question for you is and I assume that we do this because it's a serious issue is
10 how many of the, let's say almost 2,200 or more units appeared in the plan that was submitted
11 from 2007 to 2015? How many of the same... I'm curious to know how many of those sites
12 repeated?

13
14 Ms. Tanner: I think you're getting at Commissioner Alcheck what... how many opportunity sites
15 have been used for what would be two cycles. The previous cycle (interrupted)

16
17 Commissioner Alcheck: Yeah, I'm wondering (interrupted)

18
19 Ms. Tanner: And in this cycle.

20
21 Commissioner Alcheck: In my... that's exactly right. I'm trying to get a sense for in our progress
22 report, to what extent have we relied on the same sites for multiple cycles. That's exactly the
23 question. Thank you.

24
25 Ms. Tanner: So, many sites from the first... from the first? We're heading... we're in the fifth
26 cycle so from the fourth cycle to the fifth, many sites were reused and to your point. Laws have
27 required that if they are going to be used in this upcoming cycle then there would need to be
28 significant changes to be able to count those. We don't have an exact percentage but it was
29 quite large.

30
31 Mr. Wong: That is correct, yes.

32
33 Commissioner Alcheck: Maybe... this is a number I am very interested in learning because for
34 anybody listening, some people often argue that there's very little teeth to this process because
35 City's aren't responsible for actually developing housing. They just have to say that this site can
36 theoretically provide housing. So, for example, we could say that the Whole Foods Grocery
37 Store in downtown is a suitable site for housing, but that would require the Whole Foods to be
38 demolished and housing to be developed on it. And the point I'm trying to make is, is that you
39 can say that once, you can say it twice. You don't get away as a City saying it a third time and so
40 for those, I think in our community who have sat through this process and wondered why it

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1 hasn't amounted to more. I think that this upcoming opportunity to participate in the Housing
2 Element Working Group is a really good one and a really strong one because we're going to be
3 forced to address the inadequacy of the system itself. The fact that identifying sites doesn't
4 actually mean sites get built and so one number I think we really, we need to know as a
5 Commission is what percentage of the approximately 2,200 identified opportunities are now
6 at... are significantly likely not to be as easily identifiable? If you came back and you told me for
7 example that half, that would be serious because we know that the RHNA numbers now
8 quadrupled or maybe it has not quadrupled. I don't have (interrupted)

9
10 Ms. Tanner: Tripled. It's tripled.

11
12 Commissioner Alcheck: Tripled, tripled and so that means that the effort to identify new sites
13 has to be so significant which would likely require changes in our Zoning Code. Not simply just
14 identifying sites that could be so.

15
16 Ms. Tanner: Certainly. We could get that information for you Commissioner and provide that to
17 you via email if that's ok?

18
19 Commissioner Alcheck: Yeah, I'd love that. Yeah, I think everybody in the community could
20 benefit from it and I don't know if that's the sort of thing you think would be appropriate for a
21 progress report. I mean I know that we're submitting this to the City, but we're also sort of in
22 this exercise is really for us to know how are we doing and so.

23
24 Ms. Tanner: Certainly.

25
26 Commissioner Alcheck: Maybe it could be a part of the report.

27
28 Ms. Tanner: The state is not as interested but that doesn't mean that we can't provide the
29 information to the Commission.

30
31 Commissioner Alcheck: And this Council. Other than that, I think the report in and of itself is
32 worth our recommendation that it be transmitted... that City Council consider transmitting it to
33 the state because I think it meets the criteria of what these report should do. And so, I... I'm not
34 going to make the motion but I'll support that and if we get to it, you can count me in support.

35
36 Chair Hechtman: Thank you. Commissioner Summa.

37
38 Commissioner Summa: Thank you. I had a question for Staff. It was my understanding and
39 maybe I'm wrong on this, but that we could not use old identified sites for our new RHNA cycle.
40 That we have to find all new sites. Is that incorrect or correct?

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Ms. Tanner: If they've been used for the past two cycles, there's a very high bar they need to meet in order to be recounted and so it's pretty tough. It's not impossible for a site to be reused in what this case would be a third time, but it's... it would be difficult. Mr. Wong, did you want to elaborate on that?

Mr. Wong: Yes, like Rachael had said, it's a high bar. There are more requirements if you choose to use a site in the third cycle than there has to be some by right caveats if affordable housing is produced or provided as part of a proposal. So, you can but yeah, there are more requirements.

Commissioner Summa: And I would be interested in knowing how that legislation was enacted because I sort of knew about it but I don't know what legislative act made that happen. So, if just later if you could provide that to us it would be interesting for me to read. Thanks.

Mr. Wong: Ok, very good.

Chair Hechtman: Thank you. Any other Commission comments on these two updated reports? If not, I'm not seeing any hands, can I have a motion?

MOTION

Commissioner Alcheck: I'll move to recommend that we authorize the... we recommend that City Council authorize the transmittal of the reports; both reports.

SECOND

Commissioner Lauing: Second.

Commissioner Alcheck: I don't need to speak to it.

Chair Hechtman: Motion by Commissioner Alcheck, second by Commissioner Lauing. Commissioner Lauing, you haven't spoken yet on this item. Would you like to speak to your second?

Commissioner Lauing: No, I've got a ton of interesting questions about the documents but I don't think that's relevant. So, I think we're meant to review the report, I think the report is quite accurate to the extent that it states the facts and I'm good to go.

Chair Hechtman: Mr. Nguyen, would you conduct a roll call, please?

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1 Mr. Nguyen: Yes. Commissioner Alcheck?

2

3 Commissioner Alcheck: Aye.

4

5 Mr. Nguyen: Chair Hechtman?

6

7 Chair Hechtman: Aye.

8

9 Mr. Nguyen: Commissioner Lauing?

10

11 Commissioner Lauing: Yes.

12

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

14

15 Commissioner Summa: Yes.

16

17 Mr. Nguyen: Commissioner Templeton?

18

19 Commissioner Templeton: Yes.

20

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

22

23 MOTION PASSED 5(Alcheck, Lauing, Hechtman, Summa, Templeton)-0-0- 1(Roohparvar absent)

24

25 Chair Hechtman: Thank you and thank you Commissioners for yet another efficiently processed
26 agenda item. We now move to Item 4 which I think will test our abilities and oh, before I let you
27 go I want to thank our Staff, Ms. Moitra and Mr. Wong, for your presentations and for your
28 hard work.

29

30 Commissioner Alcheck: And welcome back.

31

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

33 4. PUBLIC HEARING/LEGISLATIVE: Review and Discuss Potential Ordinance Changes to
34 Palo Alto Municipal Code Chapter 18.09, Accessory and Junior Accessory Dwelling
35 Units. Environmental Assessment: Exempt from the provisions of the California
36 Environmental Quality Act (CEQA) pursuant to Public Resources Code Section
37 21080.17 and CEQA Guidelines sections 15061(b)(3), 15301, 15302 and 15305.

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1 Chair Hechtman: So, Item Four is a public hearing legislative review and discuss potential
2 ordinance changes to Palo Alto Municipal Code Chapter 18.09, Accessory and Junior Accessory
3 Dwelling Units. This is a matter that we started our discussion on at our last meeting on
4 February 10th and we just barely got started late in the evening and it is my hope that we can
5 get through it this evening. There are 12 discrete directions that the Staff is looking for. We
6 have 12 items as laid out in the Staff report and so I've got a strategy that I'm intending to
7 implement unless I get strong objection from any of you Commissioners. And that is I want to
8 take these items one at a time in the order that they are described in the Staff report which
9 would start with the basement issue. I'm going to ask that the Commissioners limit their
10 comments to 3-minutes at least in a first-round and then we'll see where we are. I want to
11 point out that even that 15-minutes times 12 is 3-hours and that's without time to further
12 discuss and vote. So, I know that's an aggressive schedule but that's what I would like to do.

13

14 Additionally, part of this process as discussed in the Staff report by Mr. Sauls at the last meeting
15 and I think also referenced in his comments by Commissioner Alcheck is we've got a direction
16 here to, we're reacting in sense to a task force of professionals who have taken their time to
17 put together a set of recommendations. There's a letter from that task force at the back of our
18 Staff report with 15 items. It includes some subitems. Many of those items are not really within
19 the purview of the PTC and so Staff has brought forth to us the 12 that are, but because it was
20 the Council's will that we have some sort of dialog with the task force to help us work our way
21 through these issues, I'm going to invite Randy Popp who is one of the members of the task
22 force to address these items as we get to them because since the task force wrote the letter,
23 the Staff report has come out, the task force had an opportunity to review it and I think it
24 would benefit the Commission before we start our comments on each one, to hear any
25 additional comments from the task force really reacting to the Staff report and telling us
26 anything else we need to know. We don't need to do that on the first item, the basement
27 because having gone back and reviewed the way the last meeting ended. Actually, we already
28 heard from the task force on the basement issue and so I see Ms. Tanner's hand up.

29

30 Ms. Rachael Tanner, Assistant Director: Yes, Chair. I just wanted to as you prepare to begin the
31 discussion again. Offer the... I think Mr. Nguyen is going to be bringing up the timer that's 3-
32 minutes so that will be a new method we're trying. We're seeing if... it was City Council's
33 method of using a timer, which you all will be able to see as kind of one of the Brady bunch
34 boxes on your screen, so you'll know kind of how much time you are having as you're giving
35 your comments. We did get a request Chair just at 5:30 today from a member of the public
36 wanting to ask to reopen public comment on this item. That's certainly not required as there's
37 no new information being provided that was not provided at the last hearing and so you do see

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1 some raised hands among attendees, but that is of course your discretion to keep public
2 comment closed or to open it again but I did say I would relay that message to you.

3
4 Chair Hechtman: Alright well and I appreciate the message being relayed. I'm not inclined to
5 reopen the public comment period. There was an opportunity at our February 10th meeting for
6 public comment and there's been a 2-week opportunity since then to send in email public
7 comments. And in fact, some members of the public have availed themselves of that and I
8 know I have and I expect that all the Commissioners have read those public comments. So, I
9 think we would need to move forward with our process, at least that's my thought and I'm
10 open to hearing from other Commissioners on that. Commissioner Summa, I see your hand up.

11
12 Commissioner Summa: Thank you so much. I was wondering how the Chair was differentiating
13 the task force from general members of the public because I really appreciate their work. I
14 know many of them, not all of them, but they are not our professional Staff and I'm not quite
15 sure how you're imagining incorporating them on an item by item basis. Not in oral comments.

16
17 Chair Hechtman: I'm going to the same way that I could ask a question of an applicant after the
18 close... in processing an application here. This entire item, all 12 of the things that we're going
19 to discuss, are things that were identified by the task force. We've been instructed I think by
20 the City Council to have a dialog with them and I do not think it was practical with these 12
21 items to make the task force try to address 12 items in a 10-minute process. So, I view this as
22 the most efficient way to get information from the people who are raising the issues that we're
23 going to discuss.

24
25 Commissioner Summa: I appreciate the efficiency idea; however, I will say many members of
26 the public who are limited to short periods of time speaking would also appreciate that same
27 privilege and we don't give it. So, I'm frankly not comfortable with it but, it's of course, your
28 decision.

29
30 Chair Hechtman: Your concern is noted. Commissioner Lauing.

31
32 Commissioner Lauing: I'd just like to get Assistant Director Tanner's view relative to the
33 multiple comments that will come on all these points. It seems like we're setting up a debate
34 between Staff and some architects, in addition to the letter that we received which was great.
35 There were a lot of good detail and so on but I would just like to get your view on it.

36
37 Ms. Tanner: Well, certainly I think it is healthy debate as all good policy discussions have. I think
38 as it's been noted and I think as the City Attorney said last time, it is the Chair's discretion to ask
39 certainly a member of the public, in this case, the representative of the task force, to
40 participate. I think in the interest of time it would be important to ensure that they also have

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1 concise comments and then we did also provide a restating of our Staff report in table format
2 to help the discussion. You should have received that by email today. We do have it available to
3 help really clarify where the Staff's position are, where the task force position is and what the
4 current even on the book laws are right now. So, we hope that will be an aide and so while we
5 do encourage and hope for a robust debate. It may at least cut through some of the confusion
6 we had a little bit last time.

7
8 Chair Hechtman: Alright, thank you. So, I'm going to start the process and incidentally, I am
9 intending that Mr. Popp also limit his comments to a maximum of 3-minutes. And again, those
10 would be in advance and once you've heard them, if a Commissioner wants to ask a question of
11 Staff then that will be their prerogative.

12
13 So, I want to start with the first item in the Staff report which is the basement issue, and let's
14 see, so and in the report, Staff details really five bullet points. First of all, they're supportive of
15 allowing basements under accessory units but they've got five bullet points which appear on
16 Packet Pages 141 and on to 142. And so, at our February 10th hearing, three of the
17 Commissioners spoke. Commissioner Templeton, I asked you to hold your comments at the end
18 of the evening for tonight, as did I, and so I'd like to lead off with you if you would like to lead
19 off?

20
21 Commissioner Templeton: That's alright, I'll pass on this one, thank you.

22
23 Chair Hechtman: [unintelligible – low audio] I will provide my comment if you will. It's really a
24 question for Staff. When I look at the fifth bullet that is contemplated for allowing basements,
25 which is on top of Page 142 of the Packet, all basements for accessory units shall count towards
26 the unit's Gross Floor Area. So, I was curious about that from a practical standpoint because my
27 thinking was the cost to build down, to build a basement underground, is much greater than
28 the cost to build up a second story. And so, I was wondering if we had this requirement that
29 includes Gross Area, why would anyone ever use that? Wouldn't that just convince people not
30 to put in basements because it's going to count and it's cheaper just to build up? So, it might
31 have the opposite effect of maybe what's intended. So, I was wondering if Staff had given some
32 thought to that concept?

33
34 Ms. Tanner: Certainty, it is expensive to build a basement. I think part of the request that's
35 coming, not to speak for the other parties, is to have that partially sunken floor to gain
36 additional height. And so, in that regard, it may be worth that for that applicant. Again,
37 basements are allowed in ADUs, just not in the specific area that's being requested in the
38 manner that's being requested.

39

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1 Mr. Garrett Sauls, Planner: I can share my screen for we had put together some of the slides
2 that Rachael was mentioned earlier which talk about these specific topics. So, that way we can
3 kind of have a conversation focusing around that. So, give me a second.

4
5 Ms. Tanner: And if you have any other questions Commissioner Hechtman or Chair, we can
6 have those as well.

7
8 Mr. Sauls: And I think we also tried to clarify last time that the... it was actually incorrect in the
9 Staff report. We should have identified that we were trying to say that the basement space be
10 counting towards Maximum Unit Size rather than Floor Area. So, that is a correction that should
11 have been fixed before this meeting rather than Gross Floor Area for the basement space.

12
13 So, what you guys see... what you all see on the screen right now is on the left-hand side kind of
14 describing what our current regulations are for basements. The middle speaking to the Staff
15 proposal in the report for potential regulations we can think about where we would be possibly
16 open to having basements within setbacks which is something we don't currently allow for
17 accessory buildings. The main house can do so and under units that are following the state's
18 code regulations under Table 1. They are allowed to follow basement or are allowed to have a
19 basement, but that basement does contribute towards the Maximum Unit Size that they can
20 have. In addition, I think there may be a point to ask as to whether a Council were to explore
21 areas as well because currently, the state code is a little silent on that. And then on the right-
22 hand side, you see what has been condensed into... from the letter that we received from the
23 design professionals.

24
25 Chair Hechtman: Thank you. I think that's... this is a helpful table. So, let me bring it back to
26 other Commissioners now that Commissioner Templeton has had an opportunity to go first and
27 I have provided my question. Are there any other Commissioners that spoke last time that
28 would like to speak now? Commissioner Alcheck.

29
30 Commissioner Alcheck: I'll try to do this quickly. I think there's two... I don't think... I think we
31 could have been clear last week. There are a lot of questions people have in this community
32 about basements. Basements aren't currently allowed anywhere where a parcel is in the flood
33 zone. Basements that would cross a water table which would require some sort of pumping are
34 now have new policy in our community that are so much greater than they were even a few
35 years ago that has largely impacted the development of basements in those areas. So, when
36 we're talking about basements, we're not talking about the basements that people have largely
37 lobbied against those in the flood plain and those that cross that water table threshold. We're
38 talking about basements in areas where the water table is actually far below where the bottom
39 of the basement would be, wouldn't require any pumping, right?

40

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1 For the most part, those are the parcels where basements are ever considered and in those
2 exact situations, I think what we're really talking about is we use to have this thing called the
3 buildable area. And the buildable area did not approach the rear fence of a lot by closer than
4 20-feet, but now under state law we have to allow ADUs to be built closer than 20-feet and so,
5 the question is. Is that we... if there's going to be development closer than 20-feet, how does
6 the basement impact our general approach to development and the truth is, is we don't count
7 basements period. Ever, anywhere, and so... and that's because they... in the areas where I'm
8 suggesting these basements, in areas where they don't cross the water table and it's not very,
9 very challenging. In these areas, that's because they have absolutely minimal impact.

10
11 I think all the bullets here are really good so I would support if we're doing this quickly, a
12 proposal that we say that the basement can encroach into the 4-foot ADU setback, and that
13 light wells can't be closer than 4-feet, and that it can't affect tree roots on adjacent lots, and
14 that I would not require that the basements be fully below grade such that the floor is... the
15 ceiling is placed at the grade. I don't think that's necessary. I think we should add for flexibility.
16 Why, because we have a height limit and that's really the important part of this for the
17 structure above grade. And again, I don't think we should have basements count towards the
18 Gross Floor Area and I'll be honest with you. I've had a few conversations in the last week and
19 one of the most compelling reasons to allow a basement is storage. So, if you're going to build
20 an 800-square foot ADU if you have a small storage area below the ADU with a staircase that
21 goes down that allows you to put for example your alpine skies or whatever stuff that you can't
22 fit into a 700-square foot ADU which was the maximum you could fit into the area you had.
23 Even though the maximum was larger because there are other constraints. This can create a lot
24 of opportunities and so people in the ADU business I've spoke to in the last 2-week have said
25 that the most difficult challenge they have is storage and so who knows how people use it but if
26 we're ok with it 15-feet away from this spot. Then we should theoretically be ok with it here
27 and that's my proposal.

28
29 Chair Hechtman: Thank you, Commissioner. Are there other Commissioners that want to speak
30 on this item? Basement? Commissioner Lauing.

31
32 Commissioner Lauing: I'm listening and reading and pressing buttons here. I think... so as I
33 understand the new slide that you have up, you're saying that state law now, compliant Table
34 1, can have a big basement, any configuration and then over on Staff proposal, Table 2, could
35 do basements in setbacks. And just can you give us and the audience what's the difference
36 between Table 1 and Table 2?

37
38 Ms. Tanner: Sure. We actually have Tables 1 and 2 available. So, Table 1, it's a little tiny, but
39 these are the ones that kind of basically the state ADU program. So, there's a lot of different
40 columns but one way to think of it, although it's not [unintelligible] in all cases, is a bit about

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1 the size of the ADU and the location of the ADU and then if you'll go to Table 2 Garrett. These
2 are tables where maybe someone wants to do something that's a bit different. Perhaps in
3 terms of size of the ADU and so, there are some other restrictions and rules. And this is again
4 the City in some cases going above what state law requires and so allowing certain things, but
5 also trying to have some of our privacy regulations and other items apply. So, this is the table
6 that the request is that these units would also be allowed to have basements and in terms of
7 outside of the buildable area. So, if it's 4-feet from the property line, that Table 2 ADU would
8 also be able to have a basement.

9
10 Commissioner Lauing: Right so you're... I don't want to put words in your mouth but is your
11 view that this is sort of small and incremental to what's already in place?

12
13 Ms. Tanner: It depends on how you look at it. Certainly, another... a unit can already have a
14 basement 4-feet from the property line and so one would say why not allow all units of up to
15 the 900 or 1,000-square feet to have the same opportunity? Again, some reason would be the
16 concerns around privacy or other issues but if the Commission isn't persuaded by those then
17 you might say this is fine. Let's have Table 1 and Table 2 have the same rules.

18
19 Commissioner Lauing: My next question, I asked this last time but then there was some other
20 comments and I want to come back to it. I said something along the lines of it seems like it's a
21 risk-benefit relevant to trees and water and soil. And the answer was yes, but in subsequent
22 comments, including from one of the public speakers, was that well we don't really do
23 dewatering anymore and it seems like the biggest risk is dewatering. We don't have any data on
24 that. We know that I think it was Commissioner Alcheck just said, there's various water depth
25 and soil depths. And so why wouldn't we want to have this thing done on a geographical basis
26 for the City as opposed to not do it at all or do it anywhere and say we're not going to dewater?
27 That's very confusing to me because it seems like we don't have the data to make that call.

28
29 Ms. Tanner: Well, certainly the geography of the City would apply. We do have Mike Nafziger
30 from Public Works who can answer questions related specifically to dewatering but just
31 because generally a basement may be allowed does not mean it will be allowed everywhere for
32 a home or for an ADU. Mike, are you able to speak to locations where dewatering and
33 basement construction may or may not be allowed?

34
35 Mr. Mike Nafziger, Senior Engineer: Sure. Hello, this is Mike Nafziger, Senior Engineer with
36 Public Works. There's a little bit of confusion I think here. There's two types of dewatering.
37 There's the construction-related dewatering which is done on a temporary basis to allow the
38 construction of the basement. We do not allow a long... we don't allow permanent drainage
39 systems behind the basement walls so there would be no long-term pertinent pumping of
40 ground water. It would just be for construction purposes.

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Ms. Tanner: And then Mike can you speak to the way the Flood Zones may impact what a person can do on a property that's located in a Flood Zone regarding basements or underground construction?

Mr. Nafziger: Basements aren't allowed in Flood Zones at all.

Ms. Tanner: Right so as Commissioner Alcheck said, so I don't know if that answers your question Commissioner Lauing but dewatering is just temporary. Although, certainly it has, as some community members have pointed out, impacts that may not be desirable and then wouldn't be allowed in Flood Zone areas even if allowed generally in the City.

Commissioner Lauing: So, Mr. Nafziger, those are actual regulations then? Those two things that you itemized?

Mr. Nafziger: Yes, that's correct. The construction-related dewatering isn't regulations as much as construction industry standard practice and the City does have regulations to prohibit drainage systems within ground water areas so there's no long-term pumping.

Commissioner Lauing: Ok so then all these discussions about Secant Walls, if I said that correctly, that's optional on the part of the property owner?

Mr. Nafziger: A Secant Wall is another type of construction for a basement that reduces the amount of groundwater pumped. It's a different technique. Secant Walls can or can't be used depending on the option of the owner. We have regulations for both.

Commissioner Lauing: You say it can be used by the owner?

Mr. Nafziger: Yes. Yes. It would be a little extreme for an ADU but it can be done if they want to.

Commissioner Lauing: Ok, thank you.

Chair Hechtman: Commissioner Lauing, were those all of your questions?

Commissioner Lauing: Yeah.

Chair Hechtman: Alright, Commissioner Summa.

Ms. Tanner: I think your voice was a little quiet Chair. Did you call on Commissioner Summa?

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1 Chair Hechtman: Oh, I'm sorry. I don't know what's going on with that. Commissioner Summa.

2

3 Commissioner Summa: Oh, thanks, sorry I didn't hear you at all. Yeah, Commissioner Lauing
4 answered... asked some of my questions so to be clear, we don't require Secant Walls or other
5 methods that don't rely on dewatering for construction which is a big concern for a lot of
6 people in the community.

7

8 I also... there's also another issue with underground structures and that is the permanent
9 redirection of groundwaters which hasn't really been fully studied. And it's certainly is a big
10 unknown in terms of at what point would that become an issue. At one point there was enough
11 underground construction basements etc. that caused groundwater to move in a different way
12 than was desirable so I'm concerned about that.

13

14 And I'm also concerned about the delegation to the natural environment. Back yard habitat is
15 something that's been very important for me throughout my consideration on the Comp Plan
16 and stuff. It's definitely the case that the flora and fauna of the state rely on backyard habitat
17 and to the extent that we allow more and more use of the ground and make it impermeable.
18 We will be affecting that, so it's a hard thing for me. I was initially very attracted to the partially
19 underground idea which is... I'm looking at the old Staff report from Packet Page 46 which I
20 guess is Packet Page 141. Those little drawings at the top. I was interested in knowing how the
21 partially subterranean would affect the hydrology basically different than a full basement but
22 we don't have any analysis of that. So, that's kind of hard for me to know because that was
23 initially an interesting idea for me.

24

25 And also, the idea that full basements could provide... it's great that they have storage because
26 I think people that live in small units have a real problem with storage and people need stuff.
27 You know they need their holiday stuff and their skis and bicycle and whatnot but I'm also
28 concerned that it might become a secondary secondary unit. That it could be sublet basically
29 and so I have a lot of concerns about expanding the rights of basements and I'll leave it at that
30 for now.

31

32 Chair Hechtman: Thank you, Commissioner. Are there other Commission comments on the
33 basement item? So, as I understand the request from Staff, for each of these 12 items we are to
34 give them direction either to drop the item, in other words, not make any changes to our
35 existing ordinance regarding the subject matter, or keep the item in play with some direction
36 so, that they can move forward and look at ordinance language to address in some fashion that
37 topic. So, this first one is the basement issue and I think the form of our moving forward is a
38 motion. Again, it's either to... if you look at the Staff request is to provide recommendations to
39 Staff on items to include in a draft ordinance. So, these aren't at this point recommendations to
40 Council. These are really directions back to Staff that will take the form of a motion. So, I'm

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1 not... as I'm not seeing any more hands-on the basement issue. I'd ask my fellow
2 Commissioners if there is someone who'd like to make a motion in some direction for what
3 Staff should do with this basement issue. Commissioner Alcheck.

4

5 MOTION #1

6

7 Commissioner Alcheck: How about this since clearly there's not perfect consensus here. How
8 about I propose that we move the local designer recommendation and I sort of have a different
9 perspective on the local designer input here which is that my impression from the Council
10 meeting was that they wanted us to dialog. And they identified this specific stakeholder group
11 in their motion and their deliberation as one we should give the opportunity to speak to these
12 issues. So, I consistently feel like there's a lot of resources in Palo Alto that we never tap and
13 now we're actually tapping one. And so, I would put forward this one which is that you... we
14 would allow... we would consider the max 36-inch below grade for sunken floor, that we would
15 allow for up 1,200-square foot unit if 50 percent... I don't quite understand that but I think what
16 that says is you would allow the maximum to be exceeded if a certain percentage of it was
17 below grade. That's sort of a different scenario and that we would allow basements under any
18 configuration and I would support that too. And I'll give you... anybody the opportunity to
19 suggest amendments so we can get this through because I just think we need to create more
20 consistency in our code and this is inconsistent.

21

22 Chair Hechtman: Thank you. So, we have a motion from Commissioner Alcheck. Do we have a
23 second on that motion? Let's see, I'm not seeing any hands so that motion will fail for lack of a
24 second.

25

26 MOTION #1 FAILED DUE TO LACK OF A SECOND

27

28 Chair Hechtman: Anyone want to try a different motion?

29

30 Mr. Albert Yang, Assistant City Attorney: So, I guess in the interest of keeping things moving, for
31 these items where it seems like where it may be difficult to come to consensus. I think Staff can
32 probably get by without a formal motion just with the feedback that we received as part of the
33 conversation with the Commission.

34

35 Ms. Tanner: We do want to be clear though, at this point I hear two Commissioners that are not
36 clear that we want to add more basements, one that would like to. So, to me, that would be
37 Staff not working on this anymore at this point. That's the... what I'm hearing so.

38

39 Chair Hechtman: Alright, so I think what we're hearing from Staff is that unless there's a clear
40 direction to move forward then the item is dropped. So (interrupted)

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Commissioner Templeton: I raised my hand, Chair.

Chair Hechtman: Oh, I'm sorry. There it is. Commissioner Templeton.

Commissioner Templeton: Sorry to interrupted. I guess maybe my question is for Staff. I'm... this is so different than most of the items that we consider and it's got 12 parts and each of those parts has many subparts. And as I'm evaluating this I'm struggling to really pull this together to a coherent direction and it sounds like I'm not the only one because there's just so much going on in so many different directions. It's almost like we're trying to turn a creative brainstorming session into a motion and those things are sometimes a little bit incompatible. So, I'm totally happy to engage in discussion. We have time constraints because there's so many parts to consider tonight and I understand that that is also not conducive to the kind of creative brainstorming. I'm just wondering is... I apologize in advance for suggesting this idea but is this kind of potentially some kind of workshop instead of (interrupted)

Ms. Tanner: Certainly... yes, certainly that could be the case. I mean Staff have put forward a recommendation for this particular item which is in the proposal. The bullet points that Staff would support crafting into an ordinance. It doesn't sound like at least this fair, that the Commission is supportive of that so we would then (interrupted)

Commissioner Templeton: Well, what's unclear Assistant Director is why aren't you supporting the local designers, and is there some nuance to that and should we discuss it, and to what level should we discuss it?

Ms. Tanner: Right.

Commissioner Templeton: See our concerns remain to privacy. Our concerns remain to privacy and again that may not be shared by the Commissioners and certainly, not shared by the design community that has at least put forward their proposal. So (interrupted)

Commissioner Templeton: Right. Sorry, so what I was trying to say though is like to what level do we want to hash that out and that might take more than 3-minutes. You know what I mean? That's... I think the top line, obviously this chart spells the top line out but trying to resolve those and understand which one we're going to pick is potentially a more in-depth discussion and that this might not be the right venue. If it is, we can go with it. You know we can roll with it but I just wanted to throw out there that maybe if this is a direction that we really want to encourage and embrace at a larger level Citywide and it seems like it is. That we may want to do the due diligence that perhaps the time constraints and other constraints we have this evening may not allow.

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2 Ms. Tanner: That may be a motion Commissioner that would help Staff. So, if the Commission
3 were to motion to continue to have Staff researching having Table 2 units have basements. We
4 can then work on that, but what is happening is that the design community wants Staff to do
5 this. We don't have authority under our code to do it. They're going to continue to ask us to do
6 it but we don't have a Commission saying yes, we would like to research this further. So, it
7 really kind of puts us at an impasse of saying well, here's what our code says today. They would
8 like it to change. Do we want to research changing it? So, even that type of motion of
9 continuing researching and basements on Table 2 units would be helpful for Staff.

10
11 Commissioner Templeton: That's good to know. Thank you for that. I would love to hear from
12 other Commissioners before I make a motion to that effect, but what is... do you guys feel that
13 you're ready to move forward? It sounds like we're not coming together on this. Are you feeling
14 that for the other items? I'd just like to get a temperature check Chair if that's possible.

15
16 Chair Hechtman: Sure. I have three hands up and I will start with Commissioner Summa.

17
18 Commissioner Summa: Thank you so much and thank you so much Commissioner Templeton
19 for your thoughtful comments. I am not ready to move this forward now. I feel like there's way
20 too many unknowns and not enough data to support this. I also think it's probably taking up
21 more of our time than it should. As many... I suspect the financials of basements for ADUs are
22 not particularly agreeable to most people, but I don't... I would be happy if Chair Templeton
23 [note -Commissioner Templeton] is not going to make a motion to ask Staff to not spend more
24 time looking at this. I just don't feel like we're ready to make this decision now. It doesn't mean
25 that we should never consider it but I am not in favor of it now so but I will let Commissioner
26 Templeton make a motion as I think she's moving in that direction.

27
28 Chair Hechtman: Commissioner Alcheck you're next.

29
30 Commissioner Alcheck: I am a huge fan of yours Assistant Director Tanner, I really am, but I got
31 to call you out here. I can't... with a straight face we can't say that the biggest concern our City
32 has or City Staff has with the basement is privacy because they're below grade. So, our City has
33 no issue with a 5,000-square foot basement feet away from this but somehow there are privacy
34 concerns when it comes with ADU. Maybe that a misstatement but it's not privacy. I don't even
35 particularly believe that we're going to see a ton of basements but I do believe that
36 inconsistencies between our... the way we build everything else that has had a lot of protection
37 in the City, Single-family residential zoning, and the way we treat ADUs is indicative of really
38 how much we support ADUs. So, we can't walk around calling them the solution if we're like
39 you can build them but not any way we build anything else. So, instead of 3-feet for the
40 lightwell, it has to be 4-feet. We're going to have a special rule about noise-making stuff despite

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1 the fact that we don't care whatsoever about side setbacks and air condition equipment and
2 noise. I mean it's just applying the same rules to both. That's actually the only thing I want. I
3 don't really believe basements should become the new version of ADUs but perfect example.
4 You can build a basement under a garage today, many homes are doing it in places where it
5 doesn't require dewatering and the... this conspiracy theory about underground rivers being
6 rerouted, which we haven't studied because you can't study it, and frankly, that's not the point.
7 The point is if you built the basement under the garage and then you decide to convert the
8 garage into an ADU and you wanted to put a staircase down and give that person a little more
9 room. You should be able to because it has no privacy impact. So, if anything, basements make
10 privacy even less of a concern because you could lower the first floor down a little. Maybe you
11 could reduce the need to be 16-feet tall. So, for anybody listening, you're right, let's move on
12 because this is so technical and we can't move the needle, and fine if it doesn't get support,
13 fine. But I just feel like the reason why you're getting push back from me is because the
14 inconsistency suggests to me sort of a problem the way we're really comfortable with ADUs.
15 Not a problem with privacy. We had that privacy, we'd have a conversation about housing and
16 the basements under housing. So, the inconstancy is problematic and it's problematic from an
17 aesthetic point of view because ADU is about inclusionary housing, it's about solving the
18 housing crisis, and for me it's... I need there to be more logic to the Staff recommendation.

19

20 Chair Hechtman: Commissioner Lauing.

21

22 Commissioner Lauing: You know at least in '17 or '18 when this came out we were one of the
23 most aggressive Cities in the state on ADUs and we've adjusted them, got more aggressive and
24 I'm happy to do that again where it makes sense. My problem with this one has always been
25 since last time is that it doesn't seem like it moves the needle very much and this whole risk-
26 reward relationship. There is risk in the dewatering. Maybe not so much as I thought, that's
27 good. It could be used to house 15 people, I don't know about that, but it just... if Staff really
28 wants to push this. Then staying with their proposal, allowing Table 2, is definitely the way to
29 go, but I'd be happy to say look, it's just not worth the effort and you only got a certain amount
30 of time. So, I'm happy to just pass entirely on this one, but I'll differ to Staff on that. If you guys
31 are just we really got to fix this and we like our approach, then I'd say go ahead and work that
32 some more.

33

34 I'm very sensitive to the point that Commissioner Templeton raises that this format of online,
35 on camera dealing with this stuff, interfacing with Ad Hoc Committees out there, is something
36 for... a different kind of format that might be... take longer but be more productive; whether
37 that's Ad Hocs or a work shop as Commissioner Templeton suggested. You know I think that's a
38 way to go. That said, this is the toughest one so it's going to get a little easier down here with
39 the rest of these guys. So, I'd be happy if we just pass on it. If you really want to push this on

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1 your proposal, happy to look at it again. Hope that's good for you Commissioner Templeton as
2 well.

3
4 Chair Hechtman: Commissioner Templeton, I see your hand up. I see your hand up
5 Commissioner Templeton but if... I wanted to weigh in. If you were (interrupted)

6
7 Commissioner Templeton: Please do.

8
9 Chair Hechtman: Getting ready to make a motion.

10
11 Commissioner Templeton: Please do weigh in first, that's fine.

12
13 Chair Hechtman: Alright, so I'd like to take this off our plate. I don't see the... with these
14 particular items, and I do agree with Commissioner Lauing that I think this is perhaps the
15 meatiest one or at least one of the top two, that it's going to benefit the process to stop this
16 now, come back together in a separate format which is really going to be quite similar. It's
17 going to be publicly available, we're all going to be on Zoom, and really what I'm focusing on is
18 the fact that we're not being asked to recommend approval of an ordinance with specific
19 language. Right now, tonight, we're asked do we want to carry forward with a concept or not?
20 To have Staff refine it, come back with an ordinance and then we can beat the heck out of it.
21 Right and that's really where I would like to see us go is I think we need the flexibility to have
22 basements under ADUs. I think the rules about that flexibility will be very important but if we
23 don't give direction to Staff to pursue those rules then they won't. They can't and so I would be
24 interested in a motion to approve the Staff's recommendation to move forward with bullets
25 one, two, three, and five that appear on Packet Pages 141 and 142. And I'm excluding four
26 because that's really an issue of flexibility is whether what kinds of rules that we might come up
27 with to allow some excavation to stay under the height limit knowing that, and we're about to
28 talk about it, there will be different rules about privacy if they're doing that so they can get a
29 second floor. So, I'd be happy to support or second a motion like that as a way to move us
30 forward on this item and to keep Staff working on it, and to bring us back something that we
31 can actually pick at language and really tackle the fine points.

32
33 So, with that Commissioner Templeton, I will call on you.

34
35 Commissioner Templeton: Thank you, Chair. I think if that's the direction we're going to go, you
36 can make that motion. The only change I would have is not only should they move forward with
37 the items you outlined but that they should take another opportunity to incorporate some
38 feedback from the local designers as a general direction before it comes back to us with all the
39 specific language. So, that we can examine, and that makes much more sense to me. That's
40 where I think we're going to have the more productive contributions but I do think that if the

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1 designers are encountering these obstacles. That we really do want to understand them and
2 incorporate as many adjustments as we can so that we can facilitate the construction of ADUs
3 just to address the housing. So, I think that's the only addition I would have to what you
4 outlined, Chair Hechtman.

5
6 Chair Hechtman: I'd be supportive of your addition if you want to make the motion. I will
7 (interrupted)

8
9 MOTION #2

10
11 Commissioner Templeton: Ok so I again did not take notes on what you said so I apologize if I
12 forgot something. I believe you said to move the Staff motion bullets one, two, three, and five
13 with the guidance that when Staff returns they will have incorporated additional feedback from
14 the local designers. Not necessarily everything in this column but push for more such that we
15 can increase the number of or reduce the obstacles to constructing ADUs, so, that's the motion.
16 Did I get everything Chair Hechtman?

17
18 Chair Hechtman: I believe so. I believe so.

19
20 Commissioner Templeton: Any second? Is that you?

21
22 SECOND

23
24 Chair Hechtman: I will second.

25
26 Commissioner Alcheck: Second, second. Second, I don't know if you need a second.

27
28 Chair Hechtman: Alright, let me ask Staff if that motion as constructed were to pass, will it give
29 Staff sufficient direction to know how to carry this forward?

30
31 Ms. Tanner: Yes, I believe so. Mr. Sauls, do you want to... I think that helps us to know what
32 direction we're going pretty clearly.

33
34 Mr. Sauls: Yeah, it is.

35
36 Ms. Tanner: Thank you.

37
38 Chair Hechtman: Does anyone want to speak regarding the motion before we have a roll call?

39
40 Commissioner Summa: I have a question.

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Chair Hechtman: Commissioner Summa.

Commissioner Summa: Thank you. So, does that... Commissioner Templeton, does that and maybe Chair Hechtman, does that fall into the category of the Staff proposal on the slide we're looking at?

Commissioner Templeton: Yes, that's what we moved, and then as a layer of guidance as they develop the Staff proposal into something to bring back to us that's more concrete. To incorporate anything that would remove obstacles from a designer's perspective that they felt appropriate. So, in other words, it doesn't dictate that the local designer suggestions get incorporated, but it encourages them to look at what else we can do to remove obstacles to ADUs being built.

Chair Hechtman: I think to clarify and further answer your question Commissioner Summa, what we're seeing on this table in front of us under the column Staff proposal is somewhat of a summary of the more detailed explanation that you find in the Staff report. And I think they've tried to encapsulate in their Staff proposal really bullets one through five just kind of generically. These are the big... those are the big picture items in this thing we're looking at.

Commissioner Summa: And perhaps Mr. Sauls could also comment on that because the Staff proposal in the center of the slide that's up isn't specifically the same as the four bullet points. So, it's kind of hard to compare. Could Mr. Sauls comment on that?

Mr. Sauls: Sure, so I can also just... I think I'm still sharing my screen so I can just showcase the bullet points that we're talking about here as well. So, that's this item here talking about the basement can encroach and Staff support but anyway, I won't go through all of these but following these four items. So, my understanding is that we'd be going with item... the recommendation right now is item one, two, three of these bullet points. Excluding this (interrupted)

Ms. Tanner: Mr. Sauls, sorry, your screen is sharing but it's just showing the PowerPoint still. If you were intending to show the Staff report, it hasn't come up yet.

Mr. Sauls: Thank you. Ok, there we go. Alright, so these items that we are understanding the PTC's feedback is follow through with items one, two, three. These aren't numbered but I'm counting them as such. One, two, and three exclude this fourth item here, and then additionally consider this fifth item as well as look at the items that are in the task force letter that they had sent to Council and look at those to consider what could also be added to what these regulations are potentially proposing.

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Ms. Tanner: And if I may Commissioner Summa, part of the difference is that in the table that we were showing we're just saying that Staff are saying yes, Table 2 ADUs can have basements, and bullets one, two, three, and five are some of the parameters we would put around those basement units for Table 2 ADUs. So, that's kind of the connection between the PowerPoint and the Staff report.

Commissioner Summa: So, bullets one, two (interrupted)

Ms. Tanner: One is saying that the basements cannot encroach (interrupted)

Commissioner Summa: Cannot expand the basement situation or it does?

Ms. Tanner: Number, I'm sorry, can you repeat? You said number five or?

Commissioner Summa: The bullet points that are in the motion, one, two, three, and five. Do they expand the area in which a basement for an ADU can [unintelligible](interrupted)

Ms. Tanner: So certainly (interrupted)

Commissioner Summa: Or not?

Ms. Tanner: I don't know if it's so much expanding the area of the ADU as much as saying an ADU that falls under the Table 2 parameters that we have in our overall ordinance is allowed to have a basement and that basement can't go beyond... into the 4-foot setback which the ADU can't either. So, again, the ADU... the basement is below the ADU's footprint above ground and that the light well location is also prescribed as well as the impact on tree roots. So, that's looked at and the fifth bullet which I can't see right now. That the bullet... the basement shall count towards Gross Floor Area which I think Mr. Sauls was saying we want to amend and should have been corrected. So, I hope that helps to understand your question.

Commissioner Summa: Yes, it does. Thank you.

Commissioner Templeton: Chair?

Chair Hechtman: Yes.

Commissioner Templeton: You asked if I had any additional words before we vote. May I go now?

-
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1 Chair Hechtman: Yes, please.

2

3 Commissioner Templeton: So, the only thing I want to say is that we are hearing from the
4 community that is developing the ADUs and helping people build that extra housing on their
5 lots. That there are some obstacles that are coming up regularly and so I think basements is one
6 of them. It's completed. I know Staff is going to continue to work on it if we pass this motion.
7 So, I hope you will support it because we do want to kind of remove those obstacles as much as
8 we can so thanks.

9

10 VOTE

11

12 Chair Hechtman: Thank you. Thank you. Mr. Nguyen, will you conduct a roll call vote on the
13 motion, please?

14

15 Mr. Nguyen: Yes. Commissioner Alcheck?

16

17 Commissioner Alcheck: Aye.

18

19 Mr. Nguyen: Chair Hechtman?

20

21 Chair Hechtman: Aye.

22

23 Mr. Nguyen: Commissioner Lauing?

24

25 Commissioner Lauing: Yes.

26

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

28

29 Commissioner Summa: Yes.

30

31 Mr. Nguyen: Commissioner Templeton?

32

33 Commissioner Templeton: Yes.

34

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

36

37 MOTION #2 PASSED 5(Alcheck, Hechtman, Lauing, Summa, Templeton)-0-0-1(Roohparvar
38 absent)

39

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1 Chair Hechtman: Alright, thank you. Before we move to the next issue I think it's time for a
2 break. I have 8:13 and so let's reconvene at 8:20.

3
4 [The Commission took a short break]

5
6 Ms. Tanner: Chair Hechtman, I believe all the Commissioners have returned.

7
8 Chair Hechtman: Lets resume this discussion the Agenda Item Number Four and we are moving
9 now to a discussion of noise production equipment location standards. Mr. Sauls... yeah, I was
10 going to ask if you have a table for us and if you just want to briefly describe it, or is it self-
11 explanatory?

12
13 Mr. Sauls: Sorry, I was on mute. It's fairly self-explanatory I would say. In general, the state code
14 doesn't regulate location of noise-producing equipment. In the updated ordinance we reduced
15 the regulation requirements for locations standards for noise-producing equipment for ADUs
16 such that they would be able to follow the same setback that the structure had. Being that it's
17 4-feet away from a property line.

18
19 The typical way that we determine a unit complies with our Noise Ordinance, which for
20 residential properties, single-family homes, is usually 66 decibels at a property line, is that we
21 will acquire a spec sheet from the applicant that will determine or that will identify the outdoor
22 noise level of the unit produced. And if it were say for example 76 or 80-decibel rating unit like
23 something that's more typical of a 5-ton unit or larger. We typically have them provide some
24 kind of noise analysis that determines distance-wise from the property line it would be
25 compliant with our Noise Ordinance.

26
27 Chair Hechtman: The table indicates that Staff's review seems to be aligned with the local
28 designer's view on this item.

29
30 Mr. Sauls: Correct, so what we would be saying is that based on the noise that is omitted from
31 the unit, whether it's an AC unit or generator or something else, it could be placed more freely
32 on the site. Just it would need to be compliant with our Noise Ordinance.

33
34 Chair Hechtman: So, on this one, because we haven't heard from the task force on this item, I
35 would ask if Mr. Popp has anything to add given that it appears that the interest... the idea
36 between Staff and the local designers are aligned. If you do, raise your hand and Vinh will give
37 you access.

38
39 Mr. Sauls: I think we already have given them access. Randy, you might need to unmute
40 yourself though.

-
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Mr. Randy Popp: Oh good, thank you very much. Can you hear me?

Chair Hechtman: Yes.

Mr. Popp: Great, thank you. Yeah, I don't want to spend a long time on this. I think that this is one of those cases where we already have a regulation in place that manages the concern and I don't have anything more to say about that. I'll tell you that this is something that the entire group of design professionals that are part of the task force feels strongly about. There's an ordinance that requires a certain decibel level at the property line and as long as we meet that we don't really understand why there would be further restriction. Thank you.

Chair Hechtman: Thank you for your remarks and your brevity. Alright, let me turn it to Commission comments or questions, and again, we'll use a 3-minute clock on the first round. Commissioner Alcheck.

Commissioner Alcheck: I am going to bring my total 12 for 12 average to below 45 seconds by saying I support this.

Chair Hechtman: Any other Commissioners want to address this issue? I'm not seeing any hands. Do I have a Commissioner willing to make a motion?

MOTION #3

Commissioner Alcheck: I'll move to support this.

Chair Hechtman: Staff recommendation?

Commissioner Alcheck: Yeah, I'll move to support the Staff proposal.

SECOND

Commissioner Templeton: I'll second it.

Chair Hechtman: [unintelligible – low audio] to speak to your motion or second? No. Commissioner Templeton.

Commissioner Templeton: This appears well addressed so I don't need further comment. Thank you.

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1 Chair Hechtman: Any comments by other Commissioners before we vote? Seeing no hands.

2

3 Commissioner Summa: Oops.

4

5 Chair Hechtman: Oops, did I see... are you trying to raise your (interrupted)

6

7 Commissioner Summa: I think my hands up but (interrupted)

8

9 Chair Hechtman: Oh, yes, sorry.

10

11 Commissioner Summa: It's alright. I just have a question. The way it is now, the Staff proposal
12 and local designers all seem to say the same thing. That it can be located within setbacks to 4-
13 feet from the property line. Is that correct that they... all three say the same thing?

14

15 Ms. Tanner: Commissioner Summa, that is correct. It is not the way it is now though. So, the
16 way it is now is that you cannot have the noise-producing within the setback. So, that 4-foot
17 between the property line and the ADU, you cannot have the noise-producing equipment there
18 and we would say it can be within that area if it meets the standards of the Noise Ordinance.
19 So, if it's quiet enough, then you could have it there.

20

21 Commissioner Summa: So, how's that... how does Staff envision that being enforced?

22

23 Ms. Tanner: It would be enforced through the plans and as Mr. Sauls said when folks are
24 submitting the AC unit or generator. They would need to provide either a spec sheet or other
25 documentation that demonstrates that at the property line it is at or below the decibel level
26 required by the Noise Ordinance and some units are fair below that noise level, even closer.

27

28 Commissioner Summa: So, my only problem with this is that I don't think that the City currently
29 has any decibel... any ability to monitor decibel levels. They don't have any equipment to do so
30 and I just wonder why it can't be on the other side of the yard where it's not going to be an
31 issue. It (interrupted)

32

33 Ms. Tanner: That may be a question best addressed by Mr. Popp but so if I just say that just
34 depending on the configuration of the rear yard of the home. There may other obstacles, trees,
35 etc., that might prevent sitting on another side of the ADU but that would be maybe a generic
36 kind of high-level response.

37

38 Commissioner Summa: Ok, thank you.

39

40 VOTE

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1
2 Chair Hechtman: Alright, so I'm seeing no further hands. Mr. Nguyen, will you conduct a roll call
3 vote on the motion?
4
5 Mr. Nguyen: Yes. Commissioner Alcheck?
6
7 Commissioner Alcheck: Aye.
8
9 Mr. Nguyen: Chair Hechtman?
10
11 Chair Hechtman: Aye.
12
13 Mr. Nguyen: Commissioner Lauing?
14
15 Commissioner Lauing: Yes.
16
17 Mr. Nguyen: Vice-Chair Roohparvar is absent. Commissioner Summa?
18
19 Commissioner Summa: No.
20
21 Mr. Nguyen: Commissioner Templeton?
22
23 Commissioner Templeton: Yes.
24
25 Mr. Nguyen: Ok the motion carries 4-1 with one Commissioner absent.
26
27 MOTION #3 PASSED 4(Alcheck, Hechtman, Lauing, Templeton)- 1(Summa)-0- 1(Roohparvar
28 absent)
29
30 Chair Hechtman: Thank you. We'll move now to the next item. We're now in a new... a different
31 category. Category B in the Staff report, regulatory changes proposed by design professionals,
32 limit or no support from department Staff and the first of the five items under that heading is
33 parking provided for an ADU and it looks like Mr. Sauls has provided the summary sheet. Mr.
34 Sauls, do you want to say a few words about this?
35
36 Mr. Sauls: Sure. I think somewhat similarly these regulations or these tables that we have here
37 was trying... was just trying to condense the information in the Staff report to identify what is
38 the current regulation and also distill what our proposal was for this. Right now, we don't seek
39 to encourage attached garages to not count towards the maximum size as it mirrors a
40 regulation we have for garages... attached garages to the primary home.

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1
2 Chair Hechtman: Thank you. Next, I'd like to hear from Mr. Popp. Is there anything on this item
3 that the task force would like the Commissioners to know?
4

5 Mr. Popp: Sure, so first of all I'll share with you that I've had a very direct and clear
6 conversation with the Staff at HCD about this and their interpretation is that the Accessory
7 Dwelling Unit is the dwelling unit. Not the garage and so if you have available FAR on your site
8 to build a garage. You should be allowed to build a garage and an 800-square foot ADU in
9 addition to that. There was no question in their minds about that and I would encourage
10 anyone who wants to validate that to speak directly to HCD about that.
11

12 I would also say that I am troubled by the concern that we would have a future conversion as
13 being a reason to allow something. I think that we should hopefully be trusting the people that
14 are adhering to the rules and they are following the regulations and allow people to behave in a
15 manner that is good and correct and to provide benefit in that light. To regulate for people that
16 you think are going to skirt the rules is problematic for me and I think we have enforcement
17 that can handle that. Thank you.
18

19 Chair Hechtman: Thank you. Alright, I will turn now to Commission comments on this item.
20 Commissioner Alcheck, you are first up.
21

22 Commissioner Alcheck: Ok, in keeping with my time goals here I just want to say that I think if
23 the state doesn't interpret it that way, we should. We should have a policy where it doesn't
24 matter if you built to the maximum of your lot. You should still be allowed to have 800 more
25 square feet for an ADU. That's the idea here. That any limit that you could be potentially
26 bumping up against would be essentially softened for the purpose of an ADU. And so, for if, for
27 example, someone was like I'm going to build this ADU but oh, we're going to count the space
28 that you're building to cover this parking space and limit the size of your ADU as a result of it.
29 That to me seems not just unique in our approach but even if it's not in conflict with the state's
30 interpretation which it sounds like it might be. Even if it's not, it should be because the whole
31 point here is we want this minimum size... we want people to have at least this minimum
32 opportunity. So, again, I don't... I think this is probably a very minuscule technical problem and I
33 think we should support the... so this one requires a little more nuance. I think we should
34 remove this limitation or essentially have Staff delete this... the impact that a covered parking
35 area would cause to the total allowable for the ADU.
36

37 Chair Hechtman: Other Commissioners? Commissioner Lauing.
38

39 Commissioner Lauing: Yes, hi, in general, this whole section suggests that Staff has evaluated
40 everything. HCD and architect input, comment, etc., and getting our comments now so that's

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1 the section we're in. I just want to set that stages, but I reread them all fresh and just try to
2 figure out what's the best way to go. In this one, I would support the Staff's stance. I think that
3 it's consistent with single-family regulations which is something that we've talked about on
4 other items on this issue and in it fits. It doesn't really even come up very much so it seems like
5 we're dealing with a corner case here.

6
7 I do think that it's a loophole that it could be built out to this paragraph on the former Packet
8 Page 43 has a very good analysis about the Staff concerns there. And I don't share the view
9 from a lot of City experience with Mr. Popp that everybody's going to follow the rules in
10 housing or anything. Just this week I asked Daren Anderson why the sand trap wasn't open at
11 the Baylands and he said well that's because people went in there. They read all the signs that
12 said you can only hit in there... into the net from the sand trap and they were using it as an
13 extension to the golf course. They were hitting 250-yard shots into parking lots at the other
14 end. So, even with all those signs and common sense, they just don't do it, and second... and
15 also in that point is we don't have enough time to go out and check on all these buildings to see
16 what's going to happen after they're put up. And again, this is one that I don't think Staff should
17 spend any more time on so in short, I agree with their stance on it.

18
19 Chair Hechtman: Commissioner Summa. Commissioner Summa.

20
21 Commissioner Summa: Thank you. I'll just keep it brief and say that I agree with Staff on this
22 and with the comments of Commissioner Lauing. No need to repeat them.

23
24 Chair Hechtman: Thank you. Commissioner Templeton, do you have anything you want to say
25 before I go?

26
27 Commissioner Templeton: I don't have anything to add on this one. Thank you.

28
29 Chair Hechtman: So, the... in the Staff report the way that Staff describes the task force
30 recommendation as recommending that covered parking attached to the ADU to not count
31 towards the unit's maximum size and only count towards the parcel's total FAR allowance. And
32 again, we want to encourage ADUs, we want to encourage flexibility to design them to fit the
33 people who are going to use them, and I think it would be beneficial to at least take this issue a
34 step forward and see the ordinance language. It seems to me that the task force has really tried
35 to balance the issues here by saying it doesn't count towards the ADU but it does count toward
36 the overall FAR of the property. And so that is going to be a limiting aspect and I also noticed
37 that Staff report says that the City receives very few applications to provide covered parking
38 along with an ADU. So, this is not going to... this is not going to revolutionize our ADU practice
39 in the City to date. So, I would be supportive of having staff continue to look at this and refine it
40 along the lines of the local designer's suggestions. Commissioner Alcheck.

-
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MOTION #4

Commissioner Alcheck: I'll make a motion I think that we direct Staff to develop language for our review in alignment with the recommendation by the local designers. Does that seem to work for you? Ok, and I speak to it concisely after if I get a second.

SECOND

Chair Hechtman: I will second to allow a dialog about it.

Commissioner Alcheck: I'll just add this one comment which I'm particularly sensitive to this notion of loop holes and whatnot and I would suggest to Commissioner Lauing two things. Number one... in effort to earn your support. Number one, one of the most controversial issues of the ADU development has been this notion that parking will be eliminated as a result of conversions of ADUs. So, should someone actually decide to build an ADU and provide parking on-site covered, that seems to address one of the largest and consistent arguments against the typical car port or rear garage conversion into an ADU. So, for that reason alone I think we shouldn't look at this skeptically because while it may be now that it's low in applications. Maybe if it's an ADU located somewhere where parking is a little bit more constrained, this would be a popular approach, but not if it would mean your ADU would be half the size.

But if you have room on your lot, that's the second point I want to make. This isn't a loophole that somehow gets you more than you're otherwise entitled to. You would have to be allowed the structure because garages and covered parking is actually counted towards your floor area limit on a... in single-family. So, it's not as if you know let's say you maxed out. If you've maxed out your home and you built all the allowable FAR but the state grants you this 800-square foot or whatever we're allowing. Then that's it. You only get 800. You can't then add a carport. This would be if you only had 2,500-square feet of your 3,000, you decided to build a 200-square foot parking area next to the 800-square foot ADU. So, this isn't a loophole that gives people with means the ability to get more than they otherwise technically are allowed. In fact, they could easily build this in two steps. They could build the covered parking unit that would be allowed and then they could build an attached ADU next to that; which I think is a worse scenario where we would have to create a two-step process to achieve a result that actually we want. We want covered parking so I hope you guys will support this one. I think it makes sense.

VOTE

Chair Hechtman: Alright and I will just speak briefly to the second that again, the structure of this is we've heard Staff's concern and I fully expect that in shaping language for a motion...

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1 sorry for an ordinance addition that they will be looking at ways to address that concern while
2 moving forward with these concepts that are described by the local designers. Any other
3 comments on this before we take a vote? Seeing no hands, Mr. Nguyen will you conduct a roll
4 call vote?

5
6 Mr. Nguyen: Commissioner Alcheck?

7
8 Commissioner Alcheck: Aye.

9
10 Mr. Nguyen: Chair Hechtman?

11
12 Chair Hechtman: Aye.

13
14 Mr. Nguyen: Commissioner Lauing?

15
16 Commissioner Lauing: No.

17
18 Mr. Nguyen: Vice-Chair Roohparvar is absent. Commissioner Summa?

19
20 Commissioner Summa: No.

21
22 Mr. Nguyen: Commissioner Templeton?

23
24 Commissioner Templeton: Yes.

25
26 Mr. Nguyen: Alright, the motion carries 3-2 with one Commissioner absent.

27
28 MOTION #4 PASSED 3(Alcheck, Hechtman, Templeton)- 2(Lauing, Summa)-0- 1(Roohparvar
29 absent)

30
31 Chair Hechtman: Thank you, Commissioners. We'll move next to Item B Roman II, privacy. Mr.
32 Sauls, do you have... well, you are one step ahead of me. You've already pulled up the screen so
33 let's give the Commissioners just a brief moment to look at it. Alright, Mr. Sauls, I'm going to
34 ask you if you have any elaboration on the sheet that we're looking at?

35
36 Mr. Sauls: Sure. Primarily the elaboration just relies on or speaks more to our proposal where I
37 think in looking at all the language that we did end up adopting. I think there's a heavy reliance
38 on the terminology of second story which in the previous Staff report that went before the PTC
39 and also before Council. We also identified that what we understand as a true second-floor
40 level compared to a loft is not necessarily entirely achievable through a 16-foot height limit

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1 based on what the state code [unintelligible] ordinance says now. But we often times run into
2 issues where forward play hasn't...has a negative impact or a reverse effect of what we didn't
3 anticipate. So, to said our proposal would be to maintain privacy regulations but include
4 additional language that would be more expansive or more encompassing of what we
5 anticipate could be potential problems or privacy-related problems with these units.

6
7 Chair Hechtman: Alright, thank you. Mr. Popp, I'd like to hear from your next.

8
9 Mr. Popp: Great, thank you very much. I appreciate Staff's summary here and I think it's done
10 well. I want to just point out that the group has suggested five different methodologies to
11 addressing privacy concerns and two of those are not well defined or are missed in this
12 summary. I want to just illustrate those briefly. I think that the first is this idea that windows
13 should be obscured when sills are below 5-feet from an adjacent finish floor. So, whatever
14 height the finish floor is at, you measure from that, and anything that is below 5-feet needs to
15 be obscured. That allows you to still maintain a view of the sky or trees or other elements so
16 that you're not boxed in. You're not sitting inside a transparent enclosure and B is that setting
17 sills at 5-feet above an adjacent finished floor on walls that are parallel to property lines when
18 the structure is within 8-feet of a property line. So, I think that these are simple adjustments
19 but otherwise, I believe that Staff has captured this pretty well. Thank you.

20
21 Chair Hechtman: Thank you. Before I... I had a question actually Mr. Popp so Staff did provide
22 the five ATF suggestions on Packet Pages 143 and 144 and the first two that you mentioned.
23 Windows obscured when sills are below 5-feet and set sills at 5-feet when adjacent finish
24 floor... above adjacent finish floor on walls parallel to property line when the structure is within
25 8-feet of a property line. It wasn't clear to me from those two whether those apply to only a
26 second story of an ADU or where they intended to apply to a first story also?

27
28 Mr. Popp: It really is second story and I think that it is the interpretation of my group that
29 second stories are permitted. That the HCD regulations do not limit the interior arrangement of
30 a structure. You're allowed to have up to 16-feet of height and there's no other restriction
31 beyond that. So, this is an attempt to develop some privacy methodology relative to first floor,
32 second floor and how that might be impactful to neighbors.

33
34 Chair Hechtman: Thank you and the task force's third recommendation, I wasn't... I was having
35 a hard time getting a picture in my head of sleeping rooms endeavored to have ingress
36 windows located on walls non-adjacent to property lines. Can you help me understand that?

37
38 Mr. Popp: So, the Building Code says that a sleeping room must have an egress window of a
39 certain size. That means that you can be rescued out of that room or a first responder can come
40 into the room and save you. Those windows are by necessity at a certain height, by code at a

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1 certain height, and so where possible, the idea here is that you would locate those on walls that
2 are facing the interior of the lot. Not facing property lines because for the same reason I just
3 described. The height of those windows makes them problematic for privacy. You could
4 certainly allow those windows to be obscured but the challenge with this, and I'll share that this
5 is something that I struggle with, with a neighbor who has a two-story house next door to me.
6 They have obscured windows as a result of moving through the higher guidelines but because
7 they're operable windows, they open them all the time and they can look right into my house
8 and so this is a methodology that is seeking to try and control that.

9
10 Chair Hechtman: Thank you, thank you. Alright, let's turn to Commission questions and
11 comments. Commissioner Alcheck, you're first up.

12
13 Commissioner Alcheck: Sorry, can... I want... I have comments but I need to understand the
14 dialog you just had again to clarify what is the solution for the problem that was just identified?
15 Was... is the recommendation that we eliminate the requirement that there be an egress
16 window? I'm confused here. How do you solve the problem where you can just open the
17 window and the privacy is lost?

18
19 Mr. Popp: Is that... is it ok for me to respond to that?

20
21 Chair Hechtman: Yes.

22
23 Mr. Popp: Ok, thank you. So, the goal here is to endeavor to place windows at the interior of
24 the lot. There are small structures, design is flexible in many ways, and it's possible to arrange
25 the structures in a way that allows those windows to be at the interior instead of the perimeter
26 of the lot.

27
28 Commissioner Alcheck: Ok, alright, so I'll make my comment real quick, so here's how I feel
29 about this entire privacy issue. I think this is the most important thing we have to get right and I
30 think two-story ADUs are going to be some of the most controversial potential situations that
31 will exist in this environment. And so, I am a supporter of this tool but I am confident that if we
32 mess this one up, we're... the whole ADU process could go down and the community could rally
33 against ADUs. So, I am in favor of strict and clearer language so I don't even think that obscure
34 is strong enough language for windows on second floors that face perimeters. I think opaque. I
35 think it would be improper if they were operable. I would suggest to you that in endeavoring to
36 put the operable escape hatch on the perimeter side would be a problem just for that reason
37 because someone could open it and then the privacy issue is not addressed and that's a big
38 deal.

39

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1 and I would suggest to you that we had... this is in response to Staff member Saul's comment
2 which was that they didn't anticipate a lot of second-floor units. In our code, if you're floor is
3 36-inches above grade it's not considered first floor I think if I have that right and we just
4 suggested to the Staff that we wanted them to come back with that flexibility. In particular, we
5 eliminated bullet floor [note – four] when we were talking about basements which dictated
6 where the floor would had to start. And so, it's entirely possible that what you think is a second
7 floor, an average person thinks is a second floor, would be counted as a second-floor under our
8 guidelines if it started 37-inches above grade, for whatever reason, as long as it stayed under
9 the 16. It could still be considered a second floor and so for that reason alone, it would impact
10 the window placement tremendously.

11
12 And so, my big concern is that I don't think there should be... I mean I don't think there should
13 be any see-through glass or even operable windows facing an adjacent property at a height
14 that's above a fence line. So, I appreciate this notion of letting light come in. I fully appreciate
15 sky lights. Sky lights can be clear and I think windows can be on the other two sides of the
16 structure assuming it was in the corner but if it wasn't in the corner, theoretically three sides of
17 the structure if it was outside of the rear setback. But for whatever... for all intensive... and let
18 me say this if it was in fact a first-floor ADU but it had a 12-foot tall ceiling. If the ground floor
19 was below 36-inches and we considered it a first floor. Well, in that case, I don't care if you
20 have transom windows because then you're really letting... and they could be clear too. They
21 could be high and allowing you to see the tree tops from a distance but that doesn't create a
22 situation where you are perched and visibly looking down. So, it has to do with where you're
23 standing as the occupant and looking out of the window and so I believe that if you can stand
24 and visibly see over the fence of your neighbor and it's only 4-feet away. That... we shouldn't
25 allow that window to be clear or obscured. It should be opaque. It should be frosted and it
26 shouldn't be operable for the very... I mean it shouldn't be more than maybe operable like an
27 awning. We should have more restrictions so that they couldn't circumvent that because I really
28 think this is the crux. People will feel very violated if a unit goes up and they feel like they've
29 lost their ability to be themselves in their back yard because there's somebody right there.

30
31 So, I would encourage Staff to get a little deeper. I'm not suggesting the exact language of the
32 local designers. I think... I'd instruct Staff to develop very clear specifics about scenarios in
33 which a window could be considered a second-story window under our code and if so, if it
34 faced the perimeter, to what extent it would not be a see-through window and what we could
35 do about that.

36
37 Chair Hechtman: Thank you. Commissioner Lauing.

38

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1 Commissioner Lauing: Commissioner Alcheck, I appreciate your sensitivity to that and Staff said
2 they were talking about fully obscured windows and obscured glazing. So, I think they're on the
3 same page but you're word opaque might be a very good add.
4

5 I had... the question on the operable skylights just for clarification. Is that to get the light in but
6 not put in windows intentionally? Anyone?
7

8 Mr. Sauls: Yeah, I mean it would be like a window... not a window but a rooftop skylight that
9 just let in light versus just being an actual window into the space so.
10

11 Commissioner Lauing: Yeah, ok. So, I really think the Staff did a good job of shifting it to be
12 more broadening and I'd be very supportive of them taking this to an ordinance language with
13 what you have here. Perhaps with beefing up a few of the words as Commissioner Alcheck
14 suggested but I think you're right on the right track in terms of what you included and what you
15 have not included so that's it, thanks.
16

17 Chair Hechtman: Commissioner Summa.
18

19 Commissioner Summa: Thank you. I concur with Commissioner Alcheck and Commissioner
20 Lauing and furthermore, I think words like sleep... in C, like sleeping rooms endeavored to have
21 egress windows. The term endeavor there is just one that's likely to be really confusing legally
22 in the future so I think we need... I think the privacy is key here.
23

24 And also, E, no exterior lighting mounted about 7-feet on walls. It's not an issue of where the...
25 how high the lights are mounted, to be honest. It's an issue of where they are directed so
26 exterior lighting should be directed down to provide safety but not out to go into escape your
27 property and going into someone else's. So, I think Staff had it right here and is looking out for
28 what I think will be a more successful ADU.
29

30 Chair Hechtman: Thank you, Commissioner Summa. I've got a couple questions for Staff. Before
31 I ask them, Commissioner Templeton, do you want to weigh in or do you want to wait?
32

33 Commissioner Templeton: You know on some of these we're moving the Staff proposal doesn't
34 seem very controversial. I'm, in the interest of time, trying not to reiterate but I think we've
35 covered the ground and I don't have anything to add.
36

37 Chair Hechtman: Ok. Alright, so Mr. Sauls I do have a couple questions. When we look at the
38 ATF recommendations, recommendation D which is the use of operable skylights. Is that
39 concept included in the Staff proposal and if not, does Staff have some objection to that?
40

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1 Mr. Sauls: I don't think we have any objection to the use of operable windows. I think it would
2 probably just be a manner of being clear that they're accepted as a means of light into the
3 space. At least in the Zoning Code, I'm certain the Building Code would probably have
4 something like that already but I think some could interpret a 16-foot height limit as if it's kind
5 of a ceiling and anything that pushed through that ceiling is an automatic. If you imagine a box
6 reaching to that point, someone could imagine that that would somehow negate or nullify the
7 whole project because of it and that we could be obviously very clear and direct that that's not
8 the case, but be also supportive of the use of operable skylights. I don't think there's a problem
9 we have with that.

10

11 Chair Hechtman: And similarly, Item E in the ATF recommendation, which is Commissioner
12 Summa just referenced, no exterior lighting amount above 7-feet. First of all, I wanted to know
13 is there a City regulation that requires exterior lighting to be pointed downward rather than
14 out?

15

16 Mr. Sauls: We do. It's in the single-family residential regulations so we do have something that
17 we can pull from there that speaks to the need to have lighting be downward facing or not
18 projecting off onto other properties.

19

20 Chair Hechtman: So, this... their proposal is actually... would actually augment that and not only
21 does it have to be downward facing, it has to be no more than 7-feet so that you're not even
22 going to see the light on your neighbor shining down from a high level, from 14-feet up.

23

24 Mr. Sauls: Right, for a side-facing fence the maximum height is typically 7-feet. So, I think that
25 may be where their... hopefully their... that's where they're trying to pull at that kind of fielding
26 from.

27

28 Chair Hechtman: Ok and does Staff have (interrupted)

29

30 Mr. Sauls: Support it?

31

32 Chair Hechtman: Any issue with that concept?

33

34 Mr. Sauls: No, we support that.

35

36 Chair Hechtman: Ok. Alright, so I guess where I weigh in is I like those Items D and E from ATF.
37 Also, I do like the Staff's sensitivity to recognize that not all second floors are created equal.
38 They don't start at the same point and I think really when you've... when you read the Staff
39 proposal here in the cheat sheet, I think that's kind of what... where Staff is going at is that
40 we're not concerned as much with what we call that upper area as we are with what

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1 regulations apply when you're above the fence line and could look at your neighbor's property.
2 So, I kind of like a hybrid of the Staff proposal plus D and E from the ATF. Commissioner
3 Alcheck.

4
5 Commissioner Alcheck: Yeah, I want to ask a quick question and this is... you know this is
6 coming from a good place because I do really support this, but in our City, we have a slightly
7 different process for second-story development in single-family residential. Meaning that if you
8 want to build a two-story house you go through a slightly different review than you do with a
9 one-story house and so for example if you build a one-story house with a very high ceiling, even
10 16-feet, and you have transom windows. You don't have to seek approval because you're not
11 creating privacy issues, but if you build a two-story house and you only have a 4-foot tall
12 window. You have to go through that two-story review. And I don't know if this would even fly
13 in the state process, but considering that we do this for single-family homes, main residences, I
14 think we have a better case of saying we're just being consistent with our approach. And so
15 maybe the tool here is to... because again, my objective here is to create here an opportunity
16 for people to build ADUs that doesn't scare half this community. And so maybe one of the
17 options here would be to have some language that we could look at, we could try, that would
18 create a process by which the same way we do for the main residences. If you have two-stories,
19 you go through... what do we call it?

20
21 Mr. Sauls: Individual Review.

22
23 Commissioner Alcheck: Individual Review and so if you're going to build a two-story ADU that
24 clearly has different impacts than the one-story ADU. We're going to have an individual review
25 for that process so that someone could just be aware about what's happening and make sure
26 that they understand what's coming and they can communicate to their neighbor their
27 concerns and that process that we have. So, I want to just throw that out there and see if any of
28 you are familiar with the Individual Review process for two-story homes and whether you
29 would be amendable to some... just seeing some draft language regarding that and seeing if we
30 could jive with the state law.

31
32 Ms. Tanner: I think that Mr. Yang would like to speak to that, if that's ok Chair and why that
33 may not be something we can do?

34
35 Chair Hechtman: Can I ask a question along those lines so Mr. Yang may have anticipated the
36 question. Mr. Yang?

37
38 Mr. Yang: So, there are some issues with the idea of just sort of importing our Individual Review
39 process into the ADU context because even though we're only talking about these Table 2 units.
40 You know the ones that are over 800-square feet, where someone is trying to do something a

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1 little bit different than what the state tells us we have to just approve. Our review of those
2 applications needs to be ministerial. So, the only way I can think of right now of creating
3 something that approximates Individual Review is for us to create regulations for these Table 2
4 units that make it very... objective regulations that make it very difficult to have a second-story.
5 And then say if you want to seek an Exception from those objective regulations then you can go
6 through this more subjective process of individual type review. And I think this is why Assistant
7 Director Tanner earlier spoke about the basement regulation as being a privacy concern
8 because that's really our one hook to keep people from building a second story is to not allow
9 them to go to sink that first floor by a foot or two feet.

10
11 Commissioner Alcheck: So, I appreciate that. I guess what I would say is I think what you're
12 hearing tonight isn't a concern that the siding of the ADU above a certain foot would cause a
13 privacy concern. It's the glazing, glazing meaning windows, and so maybe the alternative isn't to
14 say we're going to create a policy that's so restrictive that you need a special Exception to build
15 a second-story. Maybe we just need to have rules regarding glazing that are so restrictive that
16 in order to get the glazing you want, you need to seek an Exception because that is again like I
17 said, that's the privacy concern is the glazing. So, I would be in support of seeking some draft
18 language, and I wonder if any of my other Commissioners wish to see it, where it basically said
19 for any windows that exceed the height of a fence, they have to be opaque, frosted, choose
20 your word, and if you want to create a pathway for Exceptions that looks like Individual Review,
21 so be it. And that way if someone is like look, I'd love to explain to my neighbor what I want to
22 do and if I can get their support, great, and if I can't, great. So, what I'm suggesting is that the
23 two-story ADU isn't the problem. It's the two-story ADU with a bedroom window overlooking
24 your firepit or whatever you've got in... your little art studio, you know whatever, and so I like
25 this idea you've just come up with. Creating a very strict process and if you want something
26 other than that you'd have to seek an Exception which could resemble our Individual Review
27 process. If that's something you think is possible I would support a motion that asked for that
28 kind of interesting language.

29
30 Ms. Tanner: As far as the Staff's support, I think that certainly, we could do that. I think part of
31 the issue with the privacy and I'm glad we're having the discussion, is just to hear from the
32 Commission because this is very sensitive. I think you've made your... and the motion will make
33 it even clearer, what your intent would be and I think it's an area where Staff really has a
34 sensitivity to want to have policy by [unintelligible – audio disturbance] such as yourselves
35 helping us to navigate this topic, and so that when it goes forward back to PTC and onward to
36 Council we've really thought it through.

37
38 So, what I'm hearing is it sounds like there's some agreement with some of the suggestions
39 from the group in terms of there had previously been some interest in the egress windows
40 facing the interior lot and maybe even making it required or be very specific. That certainly

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1 windows above a certain height facing other properties would have some type of obscuring or
2 other things and then the skylights being operable being amendable to pretty much I think all
3 parties that are a part of this conversation.

4

5 Commissioner Alcheck: I would say I... that those obscured windows would be non-operable.

6

7 Ms. Tanner: Ah, ok.

8

9 Commissioner Alcheck: Because I want to eliminate the possibility that someone could subvert
10 that the intent here and then I would suggest to you that I would be amendable to... because I
11 don't... maybe there is something we can appreciate. I'd be amendable if you want to seek
12 Exception then you go through a process like Individual Review. Maybe that's too much of a
13 pain in the ass to figure out... excuse me, pain in the butt to figure out right now and that's fine,
14 but my default would be to be most restrictive about this privacy concern about glazing as
15 opposed to trying to thread the needle here because it could cause issues.

16

17 Mr. Sauls: Thanks, and I did have that. I did make a note that you were speaking also to
18 operable windows so.

19

20 Commissioner Alcheck: To be clear I would say like any window on the perimeter above 8-feet
21 should be obscure and fixed if you're looking for a more... that's how tough I would be about it.

22

23 Chair Hechtman: So, I think there may be safety issues, even on the second floor, with an
24 escape route needed through a window. So, I think we'd have to... I think that's something we
25 could have Staff explore but I would hate to draw a line in the sand here to find out we were
26 asking for something that couldn't happen. And so, it seems like the task force solution was,
27 and maybe endeavor was not a strong enough word, maybe it's require, them to design their
28 structures so that where there's a second-floor bedroom. It must exit onto the long side of the
29 yard if you will. The one without the short setback. Maybe that's a kind of requirement because
30 I don't know that we can preclude operable windows if that's the escape route so that's one
31 issue.

32

33 On the opaque, if I'm understanding Commissioner Alcheck, I think you're suggesting the whole
34 window top to bottom be opaque or frosted, whatever and I guess I have an issue with that.
35 And I have 25-years of practical experience of living in this house in a bedroom on the second
36 floor with a big bay window that faces the street and we have these blinds that we... if you
37 drive by our house you'll see them. They're pulled up during the day about 60 percent so that
38 you can't see me standing in my bedroom and I pretty much can't see you driving by. I really
39 can't see the house across the street but I can look out those windows and I can see the sky and
40 I can see the trees and I can see them clearly because my windows are not opaque up there.

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1 And so, I'm concerned that if you frosted all my windows, I would feel trapped and that might
2 be uncomfortable. And so, I like the concept of making the windows opaque at and below eye
3 level and I like the Staff approach on that issue to define not... what's at eye level with a more
4 flexible tool than just call it second story which I think is what the existing language is. So that
5 would be my concern about all opaque windows and I see Commissioner Templeton's hand.

6
7 Commissioner Templeton: Thank you. I just wanted to ask Staff if do you have any feedback on
8 the level of detail we're going on this? Is it perhaps... like do you get the gist or is it welcomed
9 to have this level of feedback or can we... just because we got nine more to go through and I
10 feel like we're getting into a lot of detail.

11
12 Ms. Tanner: Certainly. Sorry, continue Commissioner.

13
14 Commissioner Templeton: No, that's a... go ahead.

15
16 Ms. Tanner: I think that we are getting a detail level that is helpful for Staff and I want to just
17 repeat what I'm hearing to make sure I'm capturing it correctly. And before I do that, just
18 remind this is to Table 2 units so other units that are under the state-mandated program can
19 have a second story and they can have clear windows. There could be... so I want to make it
20 clear that we're going to avoid all issues with second story ADU windows through this practice
21 but what we are trying to do is when folks chose another path that has larger units. That we're
22 trying to minimize it with those and for folks who say yeah, I want to have a larger ADU and so
23 yeah, I'm willing to do some of these compromises that I don't have to do if I chose to have a
24 smaller unit.

25
26 With that said, I think what we're hearing that the goal is really to think about where eye level
27 is and that it's really above the eye level that could look down into neighboring property that
28 are the big areas of concern. And then, of course, making sure that it aligns with what's
29 required for life and safety and so recognizing that we couldn't just say well, that window has to
30 be non-operable if it's required by that. So, I'm certain there's a way that we can figure out how
31 to do that and put that... and bring back to you for consideration as code language and I do
32 have the other notes as well. The skylights and things like that, so I know it might be
33 (interrupted)

34
35 Commissioner Templeton: That's good to know.

36
37 Ms. Tanner: So, that's kind of what I'm hearing and it could be a motion to say continue to
38 work on a set of issues A, B, C and come back to that.

39

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1 Commissioner Templeton: Is it ok for us to say something like maximize safety and privacy at
2 the same time and come back with proposals for that, or do we need to kind of give you more
3 specific direction on that?

4
5 Ms. Tanner: I think we... I think we're understanding and that would be sufficient.

6
7 Commissioner Templeton: Ok, thank you.

8
9 Chair Hechtman: Commissioner Alcheck.

10
11 MOTION #5

12
13 Commissioner Alcheck: Look, I just want to respond Commissioner Hechtman [note – Chair
14 Hechtman], I completely appreciate this notion. I know exactly the setup you're describing. I
15 utilize similar style blinds for purposes in my home but none of my windows face and overlook
16 my neighbor's fence. And so, what I would suggest to you is that if there was some theoretical
17 possibility to consider light... clear light... because when I'm talking about frosted light. I'm
18 talking about light comes through. In fact, I would suggest to you that I have a frosted skylight
19 which does a tremendous job at diffusing light into my house better than the clear skylight
20 would have done. Astonishingly it diffuses light into every corner of the room as opposed to a
21 light panel, but I would just want to add that I would only support a minimum of 84... it would
22 have to be frosted to 7-feet from the floor level that that sill is sitting above. So, if you've got a
23 second floor, I wouldn't... eye level is too unspecific and it's not whether or not you can see out.
24 It's whether the neighbor feels like threatened by this situation.

25
26 And I would just respond to Commissioner Templeton with the most respect here which is I...
27 this idea of let's balance safety and privacy. We want to balance... we want to create housing
28 but not at the expense of destroying people's sense of back yard and so we're talking about a
29 very unique situation. A two-story ADU, there's not going to be a ton of them. Maybe there will
30 be some, maybe it will be an ADU built on top of an existing garage that's already close to the
31 property line. And in that case, maybe there's a way we can encourage that the bedroom not
32 be put in the corner that's adjacent to that perimeter and they put the bedroom somewhere
33 else because they have to have an egress window. I think there are other solutions because I
34 really do think this will be the thing that destroys somebody's sense of privacy. Maybe there's a
35 version of a fixed window that just pops out in case of an emergency. So, it's operable for
36 emergency purposes only but not so that you can destroy the limitation we're trying to put in
37 and so I'm not trying to put words in your mouth. I think that you agree with the sentiment and
38 the question is are we limited by our own experience.

39

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1 And I would hope we would be comfortable letting Staff do a few things. Number one, I would
2 come back with different versions. Show us what is super strict and then show us maybe
3 something a little less strict. And we can decide between the two what we like because I think
4 most of us understand... I think most of us are in agreement here we're fearful that we'll
5 destroy flexibility and usability which we don't want to do. And I think some of us are largely
6 protective and so hopefully we can come up with something so I'll make a motion. I would
7 [unintelligible – lost audio]. Sorry. I would recommend that Staff return to us with language that
8 reflects the discussion we've had, emphasizes the privacy concerns we have with respect to
9 glazing, and come up with some concrete and specific rules that meet the goals of limiting
10 opportunities for individuals in adjacent lots to feel like their privacy has been infringed. And
11 I'm leaving it intentionally a specific here because I think you've took all the notes you really
12 need. You don't need me to tell you that it should be glazed if it's under 8-feet. I think it would
13 be better if you sort of tapped into it and I would encourage you to maybe bring us some
14 information about operable sky lights would work. Just to address that one point that Staff
15 member Sauls said which is about the operable sky lights is I've never seen an operable sky light
16 on something that wasn't pitched. And so, in theory, they open down the pitch so they would
17 never be at the height... the top height of the roof because they don't operate up in that
18 corner. They don't operate like that, they operate like this, so I don't think we would see those
19 issues maybe about the height being maximized. And I think sky lights provide an excellent
20 source of light so maybe we create the usability and light experience that some of the
21 Commissioners are looking for. We also have language that protects the privacy like some of
22 the Commissioners are clearly concerned about.

23
24 Chair Hechtman: So, Commissioners Lauing and Templeton, your hands were up before the
25 motion was made. So, let me first see if there is a second to the motion and then I will call on
26 you.

27
28 SECOND

29
30 Commissioner Lauing: I'm seconding the motion.

31
32 Chair Hechtman: Commissioner Lauing, are you seconding?

33
34 Commissioner Lauing: I am.

35
36 Chair Hechtman: Ok, alright, so are you're up so.

37
38 Commissioner Lauing: Yes, speaking to that I was ready to make a motion. Commissioner
39 Alcheck's was kind of long but I think his motion stopped and then he commented on it. So,
40 basically, we're going in the direction on the privacy issue that Staff has proposed. For them to

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1 incorporate comments that we also put on the table so that's what I'm supporting. I think
2 they're going in the right direction there.

3

4 Chair Hechtman: Commissioner Templeton.

5

6 Commissioner Templeton: Thank you. I'm inclined to support this motion as well. I raised my
7 hand just to clarify for the record that I was suggesting not to balance privacy and safety but to
8 maximize privacy and safety at the same time because I think that we can do that. And we can
9 ask Staff to do it and I think your motion captures that.

10

11 My main objection is that we can't really be crafting this wording from the dais at this point. It's
12 a little premature so I was concerned we were going in that direction. I like that the motion is
13 not attempting to do that and gives the guidance... the guidelines so that when Staff does come
14 back we'll have an opportunity to review the details at that time.

15

16 Chair Hechtman: Alright, I'll be supporting the motion. I think given our discussion and the
17 breadth of the motion I think we've given Staff sufficient direction that they can craft
18 something and we can analyze specifics when it comes back to us.

19

20 Commissioner Summa, before I call the vote, do you have anything you want to add?

21

22 Commissioner Summa: No thank you.

23

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1 VOTE

2

3 Chair Hechtman: Ok, then Mr. Nguyen, would you conduct a roll call vote?

4

5 Mr. Nguyen: Commissioner Alcheck?

6

7 Commissioner Alcheck: Aye.

8

9 Mr. Nguyen: Chair Hechtman?

10

11 Chair Hechtman: Aye.

12

13 Mr. Nguyen: Commissioner Lauing?

14

15 Commissioner Lauing: Yes.

16

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

18

19 Commissioner Summa: Yes.

20

21 Mr. Nguyen: Commissioner Templeton?

22

23 Commissioner Templeton: Yes.

24

25 Mr. Nguyen: The motion carries 5-0.

26

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

28

29 Chair Hechtman: Thank you. Alright, moving on to section b roman III increasing the exemption
30 for Development Impact Fees. It looks like Mr. Sauls has a cheat sheet for us. Mr. Sauls, do you
31 want to elaborate?

32

33 Mr. Sauls: Sure. It's pretty self-explanatory. In the section in the Staff report discussing it as well
34 is what this slide is trying to identify which is that currently, the state law provides exemption
35 for Development Impact Fees up to 749-square feet, and then units that are exceeding that
36 would need to be charged a comparable fee to the size of the ADU relative to the size of the
37 house. So, 33 percent sized ADU to the house would get a 33 percent charge comparison to
38 what the house may get. So, if it's \$10,000 for the house per new home on a property that's
39 vacant. Then for an ADU, you would basically get charged... and if it was somehow a third the
40 size of the primary home. You'd be charged about \$3,000 for that.

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1
2 Right now, we don't intend to or Staff doesn't propose expanding that exemption as these fees
3 are serving... are community serving fees for parks, libraries, safety, public safety facilities, and
4 general government facilities.

5
6 Chair Hechtman: Thank you. Mr. Popp, do you have something to add on behalf of the task
7 force on this issue?

8
9 Mr. Popp: I do actually on this one and we feel strongly about this one. First, I will say that in
10 January of 2020 the state adopted regulations that said that any unit that is less than 750-
11 square feet cannot be charged Impact Fees. So, any unit that has been charged that fee in Palo
12 Alto should be refunded that because that was an unfair taking. I think that that's pretty clear.

13
14 Second, I do want to just illustrate just very briefly that the way that this is assessed is
15 proportionate to the size of the existing house on the lot. That's what the state regulation
16 describes and so the clear example that I've been sharing were two ADUs that I was doing in
17 parallel. The first one was an 800-square foot ADU on a lot that had about 3,500-square foot
18 house. As a result of that calculation, that ADU was charged an Impact Fee of about \$4,000.
19 Similarly, I was doing an ADU that was just a little bit larger than that, about 840-square feet
20 but it was on a lot that has a 1,300-square foot house and the Impact Fee as a result of that
21 calculation, for almost exactly the same ADU, was close to \$15,000. And I find that kind of
22 inconsistency troubling and I think that's it a... it's an unintended consequence of the language.
23 And the number of ADUs that we see that are at a scale that exceeds 750-square feet... that are
24 at or exceed 750-square feet are not so great that this isn't something that we should let go of
25 in order to encourage the development of ADUs in a fair way. Thank you.

26
27 Chair Hechtman: Thank you.

28
29 Ms. Tanner: Chair, if I may add very quickly? I think Mr. Sauls may have covered it but we would
30 be bringing this back as... depending on the will of the Commission, that perhaps not charging
31 fees or lesser fees could be part of an incentive program to promote affordability in ADUs. So,
32 it's something to consider for the future and then also while the state has changed a lot going
33 forward. There is no requirement that Cities refund previous fees under regulations that of
34 when those fees were charged which were lawfully charged at the time that those permits
35 were issued.

36
37 Chair Hechtman: So, the refund issue is actually our next discussion topic and so I'm going to
38 hold that and ask the Commission to hold onto that issue until we get to the next one. On this
39 item before taking Commission comments, I had a question of Staff. So, these ADU issues that
40 we're wrestling with tonight, it's only a piece of the puzzle. As I understand it, you're bringing

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1 back to us possibly in mid-April other... the rest of the pie relating to affordability issues. Is that
2 right?

3

4 Mr. Sauls: Correct.

5

6 Chair Hechtman: Ok, alright and so this item is I think what Ms. Tanner what you were saying is
7 there is some linkage between this item of exemption of Development Impact Fees and what
8 we might be discussing in mid-April.

9

10 Ms. Tanner: Certainly, and it's not to negate Mr. Popp's assertion, which is true, that one way
11 to promote ADU development of all sizes could be to not charge Impact Fees at all or decrease
12 them or change the fees regardless of whether there's affordability. Another way would we'd
13 say well, let's do it but let's meet some of our other City goals at the same time.

14

15 Chair Hechtman: Alright, so Commissioner Lauing I see your hand and then Commissioner
16 Alcheck.

17

18 Commissioner Lauing: Yes, thanks. Maybe Staff Tanner can comment on Mr. Popp's examples
19 of two roughly same size 800-square foot plus that are charging... so they're being charged
20 substantially different fees because I understand the parody issue, you know neighbor to
21 neighbor. Can you address that one?

22

23 Mr. Yang: I can jump in and speak to that. As Mr. Popp and Mr. Sauls both described, the state
24 code requires ADU Impact Fees to be proportional to the size of the main house on the
25 property. So, if you have a smaller primary residence... actually, in some jurisdictions it doesn't
26 make a difference because some jurisdictions will charge fees based on square footage for the
27 main residence. Palo Alto actually charges more or less a flat fee for a single-family residence.
28 So, if you're building a 2,500- square foot main residence or a 1,200-square foot residence.
29 You're paying the same fee, the same amount for the main residence and that's why when
30 you... when we are... when you have a proportional fee calculation for an ADU you're running
31 into these discrepancies. Even though they're the same size, one of them is paying more. The
32 flip side of that is when you're building the main residence, even though they're different sizes,
33 you're both paying the same amount. That's just the way that Palo Alto is set up in single-family
34 residential fees.

35

36 We could if we went through a Fee Study and thought that it made sense, change our whole
37 single-family fee structure to be square footage based, and if we did that then you wouldn't see
38 those disparities in the fees that are charged for ADUs anymore.

39

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1 It's... what you're seeing is a reflection of our decision as a City to charge flat fees for single-
2 family homes.

3

4 Commissioner Lauing: Or as the proportional fee is a state-mandated approach, correct?

5

6 Mr. Yang: Yeah.

7

8 MOTION #6

9

10 Commissioner Lauing: Yeah, ok. Well, I presume also the same example that Mr. Popp gave, the
11 value of the entire property increases more for the 1,200-square foot house than the larger
12 house. If I got the two square footages of the main house correctly so it's the value add of the
13 ADU to the value. Not to mention, if it is going to be rented, the income you can get off of that
14 that you put into the calculations, but I understand why this is sensitive people because they
15 say I'd rather pay less than more to get my ADU up. So, I really get that but the fact of even the
16 numbers that are in the Staff report on the old report, Page 50, \$700 to \$1,200 for a new ADU is
17 a very small amount to go for the number of people over 50-years that are going to be in that
18 ADU using public services and that's what it's there for. It's not meant to be... you know it's not
19 meant to be a punishment. It's meant to be hey, more people are moving to the area and we
20 need everything from... we need our services paid for. So, I understand that and I think that we
21 can't duck that. The fact that most of ours are under 750 means most folks aren't going to be
22 having that fee and the ones that are over that, that we start to get, are getting more value-
23 added to their home and their whole property and potentially higher rents as well. So, I'm
24 definitely inclined to stay with the direction that Staff has at this point because I don't think
25 very many people are going to be impacted. And if they do I think that the value of the property
26 is going to go up. Accordingly too, the value of the potential rental is as well and I don't see a
27 way to get around the state process for equity at this point based on feedback. So, I would
28 move that we address the direction of Staff proposal on this one.

29

30 Chair Hechtman: Commissioner Alcheck.

31

32 Commissioner Alcheck: I'm going to speak quickly. A couple thoughts for you Commissioner
33 Lauing. The two units that he described were almost exactly the same. I don't think they would
34 garner different rents.

35

36 Number two, we've heard of scenarios where people move into the ADU and they rent the
37 house. In that situation, you'd be renting a 1,300-square foot house, not a 3,000-square foot
38 house which means you'd get a lot less rent. The vast majority of the situations that we going
39 to... we would notice this is in the smaller older homes. Those are the homes that are most
40 likely not new, less affluent. So, the 1,300-square foot home, the ADU of the... first of all, the

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1 largest... the larger ADUs will show up on lots that have more space and there are a lot of lots in
2 our community that were built in 1951. And despite being large lots, they have 18,009 or 1500
3 or 17,000-square foot homes on them and they have plenty of space for an ADU. And this
4 concept I think will impact them dramatically. I think this will impact people with less money
5 more and so I think we should be a little more sensitive to it.

6
7 But here's my solution and I would be so happy if everybody agreed to this and I think people
8 like Council Member Filseth have long said that they want to put their mouth... they want to
9 put their money where their mouth is. I suggest we encourage City Council to accept a 10-yr
10 moratorium on Impact Fees for ADUs. This is a tool that everybody thinks is going to save us.
11 The crisis is immediate. Let's just see what happens if we waive Impact Fees for 10-years. Are
12 there going to be impacts to our community? Yes. How many ADUs get built in a year? Not that
13 many so the idea here would be like well let's see what we can do to get this started. Let's
14 waive Impact Fees so 10-years. Let's see if we can solve this housing crisis with the one tool.
15 This is it. There's no other. I mean this is one of the most robust tools that we really have in our
16 community. We don't have other tools, unfortunately. Yet and so I just think imagine if the
17 Commission was like you know what Staff? We think the City Council should waive fees for 10-
18 years. This is a good... this is... we're going to talk about affordability in a future meeting, but I
19 don't think we even need to wait till then. Especially if Impact Fees are going to harm the
20 people with the smallest homes in our community. I don't think that example is unique. I think
21 you're going to see that happening a lot and the more people consider this and \$15,000 is a lot
22 of money. That's a lot of money when the total construction costs might be under \$100,000 or
23 under \$150,000. It represents 10 percent so let's do the right thing. Let's encourage this. Let's
24 promote this by encouraging Council to exempt the Impact Fees for ADUs.

25
26 Chair Hechtman: Commissioner Summa.

27
28 Commissioner Summa: So, I would associate my comments with Commissioner Lauing and I...
29 look, we don't have any evidence that housing is... that new housing units are being built when
30 ADUs are being built. They're largely... and this is great but used by the family that lives in the
31 primary house. Anecdotally, everyone I know that's been built has been that way and I think
32 not having Impact Fees is really unfair to other people that do an addition on their house. You
33 know if you're going to build and bring more people or build more. You need to pay more and
34 you need to pay for the Impact Fees. These people or if they bring people in that otherwise
35 wouldn't be living in this community and/or if they're just to extend the options for the family
36 in the main house. I think it's not fair to not charge these people as you would charge other
37 people that are building a new house or building an addition. It's just it doesn't make any sense
38 to me and the State has already exempted... taken away our ability to charge Impact Fees which
39 keeps our parks and pools and things that people need. So, I'm not in favor at all of removing
40 Impact Fees for any reason and I think it's such a small percentage of the cost of building an

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1 ADU. That if you have the money to build an ADU, you have a little bit for Impact Fees and
2 you're expecting it and that helps everyone in the community and it impacts everybody equally.
3 So, I'm not in favor of waiving it at all.

4
5 Chair Hechtman: Commissioner Templeton.

6
7 Commissioner Templeton: Thank you. I think my fellow Commissioners and I are running in a
8 different circle because I'm hearing from people that have developed ADUs that it's very
9 expensive, they want to help with our housing crisis and these kinds of fees are a significant
10 burden on them and they are renting it out to people outside our community. But that provides
11 a benefit to our community and so I think if the City really intends to encourage and incentive
12 ADU development. This is... reducing or eliminating those fees might be a good way to do it.

13
14 So, I was wondering if it's possible Staff, I don't know if you have these numbers, but if that is
15 material to the conversation. Do we know how many of these ADUs are creating new housing?

16
17 Ms. Tanner: Commissioner, we don't have records. We don't track whether an ADU is rented
18 and we don't track rental units at that level. So, we don't know unfortunately the status and
19 occupancy of constructed ADUs.

20
21 Commissioner Templeton: Have we heard at all from the community members through this
22 working group or directly through Staff that any anecdotal remarks about the effect that these
23 fees are having on people's willingness or ability to afford developing the unit?

24
25 Ms. Tanner: Certainly, that is what the task force is saying and, in the past,, before the relief for
26 the 750 it was a concern that was raised as well before the smaller units were exempt. So, I
27 think it really is the issue that you have Commissioners on both sides and both sides have their
28 merit that it is... can be expensive and at the same time pays for service and so just trying to
29 balance that between those two things.

30
31 Commissioner Templeton: Well just to throw my two sense in there. I think that housing a
32 public benefit and if we are trying to incentive this housing. Then this could be a way to do it.

33
34 Chair Hechtman: Thank you. Commissioner Lauing, I see your hand. Let me make my initial
35 comments and then I'll call on you. So, I have spoken at these meetings a number of times, I
36 think most recently in our NVCAP deliberations, that I think one of the tools that this City needs
37 to use to encourage the development of housing, particularly affordable housing, is to find
38 ways to subsidize it. And Development Impact Fee exemptions, that is a form of subsidy but the
39 question that comes up is how does the City maximize the bang for its subsidy buck? And right
40 now, in a vacuum, I don't know if granting exemptions for the square footage of an ADU over

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1 749-square feet is going to do that. Maybe it is, maybe it isn't but I mean for example if we
2 were told that the exemption of the fee will only make a difference to two of the next 100
3 potential ADU builders and the other 98 will build regardless, then I wouldn't want to give all
4 100 the exemption. That's taking money off the table, that maybe we could have a different
5 subsidy with a different target like multi-family housing, that would get us farther and so what I
6 would actually like to do is I don't want to kill this issue, but I'd like us to move it forward to be
7 brought back in the context of the affordability discussion we're going to have on ADUs
8 hopefully in mid-April. I would just like to push it forward to that so at least we can see it in
9 some context. Those are my thoughts and so Commissioner Lauing you're next.

10
11 MOTION #6 RESTATED

12
13 Commissioner Lauing: My original motion in my first little talk covered exactly what you said
14 Chair Hechtman, which is that they are going to bring it back relative to affordable ADU
15 regulations. So, we will be able to consider it at that point. I also actually like Commissioner
16 Alcheck's suggestion of some short-term incentive because I think that just would get people's
17 attention around it. So, I don't mind at all that we do something like for the next 2-years, for a
18 trial, we say whoever signs up in the next 2-years, regardless of the size, we're going to waive it
19 and just see what happens and if we need to extend it, we can extend it. So that's what I was
20 saying, to begin with, is I think I like the direction. We do have to be serious about paying our
21 bills in other ways but yeah, we're trying to incent housing. But to your other point Chair
22 Hechtman, I think you don't want to be subsidizing pool houses and that's one of the risks here.
23 You know I know someone in a different town who's doing that right now very intentionally and
24 that's not ok there either, but it happens and we can't apparently even get data on that let
25 alone control it. But I do agree broadly that we want to support ADUs and housing and so if we
26 have some sort of short-term moratorium on these fees to get people excited to build them in
27 the next couple of years. I think that could be great, but in general, I just support the direction
28 that Staff has gone and look forward to more specifics on that. So, that's my motion, I would
29 need a second.

30
31 Chair Hechtman: I see Alcheck's (interrupted)

32
33 Commissioner Lauing: The second is [unintelligible]... sorry? So, the idea is just to have them
34 stay with this one and bring it back with more detail.

35
36 Chair Hechtman: That's your motion?

37
38 Commissioner Lauing: Yeah.

39
40 Chair Hechtman: It's not a 2-year moratorium is not part of your motion?

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1
2 Commissioner Lauing: I'm happy for Staff to consider that and put that in as well. Yeah.

3
4 FRIENDLY AMENDMENT

5
6 Commissioner Alcheck: Can I make a friendly amendment and see if I can make your second?

7
8 Commissioner Lauing: Sure.

9
10 Commissioner Alcheck: Can we suggest that Staff work on language related to a 5-year
11 moratorium?

12
13 Commissioner Lauing: Sure, absolutely.

14
15 SECOND

16
17 Commissioner Alcheck: Ok, I will be your second and I just want to ask a quick question to
18 Albert or to City Attorney Yang. Do you know are properties reassessed after building an ADU?

19
20 Mr. Yang: I do not know the answer to that. Sorry.

21
22 Commissioner Alcheck: Ok, if they are which I presume they are, I would just give Commissioner
23 Summa to think about which is that if you build an ADU and you get reassessed. Then you
24 would be paying such significantly higher taxes than even if you bought your home in the last
25 10-years. And so, this notion of paying into the system and paying fair I think is maybe
26 something to look at again, and also, we're just talking about the units that over 750-square
27 feet. So, I think the most important question really that we need to ask is to Staff. How many
28 ADUs north of 750-square feet were built in the last year? And if the answer is zero then or two
29 then that's probably the reason, right? It might have to do with cost and so it's like we're where
30 the state told us we have... we can't let... we can't limit the size of the ADU below 800-square
31 feet. And we're like ok fine but if you build it close to that number we're going to charge you
32 but not if you build it less and so we're talking about this small group of ADUs. We're talking
33 about the kind of ADUs that are most suitable for rental. A 500-square foot ADU, that could be
34 a little guest house, that could be a little office. An 800-square foot ADU, that's the kind of unit
35 you rent and sometimes, I'll just add this last comment here which is why I'm really in support
36 of the moratorium on fees for more than 5-years, which is that you don't have to rent it out for
37 it to solve the housing crisis. You can move your mother-in-law into it. That solves the housing
38 crisis because you would have to pay for a space for her somewhere in the community and it
39 could cause you financial hardship. It could cause her so it doesn't have to be used by someone
40 outside of your family. It could be used for one of your children which is becoming a major issue

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1 in the Bay Area. The housing is so expensive that the children of our community members are
2 moving away. So, if you could give them something that gave them some independence,
3 something that they would otherwise find in a different City. They might stick around. That
4 solves the housing crisis for some. So, I think this sort of approach where we need to know
5 who's renting and how much they're getting. It's not... that's not the objective. The objective is
6 creating more places for people to live and to do so urgently. So, I'm glad you accepted that
7 and I hope everyone will support this motion.

8

9 Chair Hechtman: Commissioner Summa.

10

11 Commissioner Summa: I think you called on me. Sorry, the first like... you get cut off right at the
12 beginning of speaking.

13

14 Chair Hechtman: Yes, I did [unintelligible](interrupted)

15

16

17 Commissioner Summa: I was just going to say that you know if we had data that showed us that
18 this was providing any response to the affordability problem of housing in California. It would
19 be different but we don't. So, to the extent, as Commissioner Lauing said which we are giving
20 people a free ride on Impact Fees and other people all have to pay to build a pool house. It's
21 not particularly attractive to me. So, if we had evidence that this was somehow helping with the
22 affordability crisis in California housing then that would be a different thing but we don't have
23 that so I'm not in support of it. I think it's unfair to people who have to pay the Impact Fees.

24

25 Ms. Tanner: Chair, may I restate what I have written as the motion? So, I have written that it's
26 to move the Staff recommendation which would be to bring back either some type of relief
27 from fees in the context of affordability and that could include a waiver or moratorium on fees
28 for 5-years to be considered. Does that sound accurate?

29

30 Chair Hechtman: Ask the maker of the motion as friendly amended?

31

32 Commissioner Lauing: Yes.

33

34 Chair Hechtman: Ok. Alright, so let me say regarding the motion that I am not today supportive
35 of a 2 or a 5 or a 10-year moratorium on fees because again, I think that the City has to choose
36 how... what to subsidize and we don't have the information today to know if this would be a
37 wise choice. But I'm going to support the motion because I think Staff doing the work of putting
38 together the language that would accomplish that will require Staff to analyze how effective it
39 might be to... how many additional units do we think we will get by doing this? You know doing
40 some kind of projection and that's really what I want to see. And if it turns out that it is the

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1 solution to all of our ADU problems then I'm going to be supportive. If it is just a giveaway that
2 really doesn't solve the problem then I'm not going to be supportive of the actual ordinance
3 language, but I think it's worth carrying forward to investigate and I think this is the right way to
4 do it as the motion and second have identified. Are there any additional Commissioner
5 comments? Commissioner Alcheck.

6
7 Commissioner Alcheck: Yeah, I just want to say I... since in the interim I have looked up some of
8 the language regarding reassessment. There is an assessment for an ADU and I would suggest, I
9 can't give you numbers right now, but if someone bought their house let's say like in the 70s or
10 80s. They could well be paying less into our local coffers than somebody who would build an
11 ADU this year on an old house in an old lot adding; a 750-square foot ADU. So, this concept of
12 how much are you contributing to the community is we have to be careful because if you found
13 out that this young couple that has moved into an ADU and they're paying an assessment fee
14 greater than this person, you know it's all relative. So, a lot of our property taxes go into the
15 City and so these Impact Fees represent a small... the big question Commissioner Hechtman
16 [note – Chair Hechtman] is if you're considering an ADU and you have room for 780-square
17 feet. Are you going to say well, I'm not going to do it? I'm going... I'm just going to do the 749
18 because it's not worth that extra cost or 810 and everybody knows every square foot counts if
19 you have... if you don't have a pantry you know what I mean so.

20
21 VOTE

22
23 Chair Hechtman: Alright, I'm seeing no other Commission hands raised so Mr. Nguyen, will you
24 conduct the roll call vote?

25
26 Mr. Nguyen: Commissioner Alcheck?

27
28 Commissioner Alcheck: Aye.

29
30 Mr. Nguyen: Chair Hechtman?

31
32 Chair Hechtman: Aye.

33
34 Mr. Nguyen: Commissioner Lauing?

35
36 Commissioner Lauing: Yes.

37
38 Mr. Nguyen: Vice-Chair Roohparvar is absent. Commissioner Summa?

39
40 Commissioner Summa: No.

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Mr. Nguyen: Commissioner Templeton?

Commissioner Templeton: Yes.

Mr. Nguyen: The motion carries 4-1 with one Commissioner absent.

MOTION #6 PASSED 4(Alcheck, Hechtman, Lauing, Templeton)- 1(Summa) -0- 1(Roohparvar absent)

Chair Hechtman: Alright, it's 9:50 so before we move forward I want to do a check-in with the Commission. My thought is that we're making good progress and I think actually as we move down this list we'll get to some items that are simpler for us to deal with in terms of directing yeah, keep going or stop. But I want to... so I want to suggest that we would go till 11:00 and hopefully conclude by then. If not, we can... well I'll just say we'll take this issue for another hour to 10:50, and then we would stop. If we're not done talking about it then we might bring it back and do the rest of the business of the Commission so we could end tonight by approximately 11:00. Any Commissioner feedback on that? I see Commissioner Lauing's head nodding. I see a thumb up from Commissioner Summa. I see a hand raised by Commissioner Alcheck and Commissioner Templeton so Commissioner Alcheck, if you hand... is this a new hand? Nope, gone. Commissioner Templeton.

Commissioner Templeton: Thank you for giving us an opportunity to chime in on this. You know I think that there's some kind of curve of efficiency and effectiveness as the evening goes on. I've noticed that there are items that we are digging in that maybe we could of had agreement 20-minutes earlier in the discussion and I don't really know... you know I would love to finish in the next hour but I just want to encourage people like we don't have to opine at length on every single one of these. Especially if we like the Staff proposal so maybe we could be more efficient just to the Chair's original opening plea if we're going to go ahead and invest another hour. I hope we can maybe wrap it up. Thanks.

Chair Hechtman: Alright, thank you, Commissioner Templeton. So, I'm seeing an absence of objection to continue it for another hour. So, let's move onto Item B Roman IV, refunding prior Development Impact Fees, and Mr. Sauls, I see you have provided a cheat sheet for us. Do you want to elaborate?

Mr. Sauls: Yes, so I kept this slide the same just to try to capture both of these because they were pretty well entangled with each other. So, the letter provided by the design professionals have identified that they would be seeking to have the City refund fees that have been charged for ADUs that have been permitted but not yet been constructed. Currently and in the Staff

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1 report, I believe we identified this as well that currently the fees that we have taken in sense I
2 believe it was 2015 or 2017 that we identified in the Staff report was to the tune of \$1 million.
3 So, that... if we were to refund that money it would be supported some other mean... by some
4 other means. Effectively that whole would be filled in through some other means. Either
5 through the General Fund or some other kind of financial way that the City would be able to
6 cope with that and currently, Staff does not support refunding those fees.

7
8 Chair Hechtman: Thank you. Mr. Popp, you had actually spoken to this a little bit on the last
9 item. Do you have anything to add specifically regarding this refund?

10
11 Mr. Popp: I do, if you don't mind? I'm going to just more carefully articulate what my group has
12 asked for because we are not asking to go back to the beginning of time on this. The state law
13 changed in 2020, January of 2020, and at the moment the state law changed, the City of Palo
14 Alto was obligated to have an ordinance which was in conformance with that state law. Prior to
15 that date, it was not the same condition and so our only request is that the Council direct a
16 refund for Development Impact Fees assessed for units that have been permitted since January
17 of 2020. Not since 2015 or a million dollars' worth of that but just those since the time that the
18 state law changed. Thank you.

19
20 Chair Hechtman: Commissioner Templeton.

21
22 Commissioner Templeton: Thank you. Is it possible for the Staff to maybe explain why we were
23 taking like fees on this group after the law changed? It seems like maybe there's a nuance that
24 would be worth spelling out as we discuss this.

25
26 Ms. Tanner: Certainly, if there were fees charged to any unit last year essentially and going
27 forward from last year that was less than 750-square feet. Then those certainly should not have
28 been charged. So, we can certainly do an audit to ensure that no fees were charged and those
29 would need to be refunded and we would agree with that assessment.

30
31 Commissioner Templeton: Thank you so much.

32
33 Chair Hechtman: Commissioner Summa.

34
35 Commissioner Summa: Thanks. I was actually going to ask what Chair Templeton [note –
36 Commissioner Templeton] asked so I don't (interrupted)

37
38 Chair Hechtman: Commissioner Alcheck.

39
40 MOTION #7

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Commissioner Alcheck: Ok, it looks like we have alignment. Let's do this. I recommend that we move or let me change that. I would like to make a motion that we ask Staff to do the audit on 2020 and if there were fees that were incorrectly charged. Let's process them and get those refunded and that way we've done both things. We've maintained our current Staff view and we've met the local architect's view.

I want to add here that there were some people who went through this process before the rules were really outlined and they couldn't do as much as they will be able to do in the future and we don't want to penalize people for being first movers. That's a... someone has to do it and if we weren't going to charge them now and the state didn't want us to. Then that's... it sounds like Staff agrees that we should probably go through the process of auditing it. So, I move that we direct Staff to inquire into their 2020 practices and if they find some fees were charged, to refund those fees.

SECOND

Commissioner Summa: I'll second that.

Chair Hechtman: Alright, Commissioner Summa. Alright, we have a motion and a second and I'll be support... I'm not seeing any other hands. I'll be supporting the motion but I think I want to clarify. It seems like there may have been a miscommunication between Staff and the task force on this so that they were... it seems like Staff didn't understand, and I'm not faulting Staff, that the task force's proposal was limited to anything adopted after 2020 when state law changed. So, as a result, Staff went to the effort of looking back to 2015 to try to figure out what the impact would be and I appreciate that effort but it seems like this is not even really an issue for ordinance language. And so, I'm taking the motion as meaning we're going to address this issue with this audit and to not bring it back in any kind of ordinance form.

Ms. Tanner: That's correct.

Chair Hechtman: That's Staff's understanding too?

Ms. Tanner: Yes.

Chair Hechtman: Alright, Commissioner Templeton.

Commissioner Templeton: Yes, I'll support it as well. I was prepared to second so Commissioner Summa acted fast but this seems like the right thing to do so thank you.

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1 Chair Hechtman: Further Commission comments or? I'm seeing no hands. Mr. Nguyen, will you
2 conduct a roll call vote?

3
4 Mr. Nguyen: Commissioner Alcheck?

5
6 Commissioner Alcheck: Aye.

7
8 Mr. Nguyen: Commissioner Hechtman? I mean Chair Hechtman?

9
10 Chair Hechtman: Aye.

11
12 Mr. Nguyen: Commissioner Lauing?

13
14 Commissioner Lauing: Yes.

15
16 Mr. Nguyen: Commissioner Summa?

17
18 Commissioner Summa: Yes.

19
20 Mr. Nguyen: Commissioner Templeton?

21
22 Commissioner Templeton: Yes.

23
24 Mr. Nguyen: The motion carries 5-0 with one Commissioner absent.

25
26 MOTION #7 PASSED 5(Alcheck, Hechtman, Lauing, Summa, Templeton)-0-0- 1(Roohparvar
27 absent)

28
29 Chair Hechtman: Thank you. I'll move next to Item B Roman V, allowing doorways between
30 units and I see Mr. Sauls is (interrupted)

31
32 Mr. Sauls: Ferociously scrolling through the Staff report.

33
34 Ms. Tanner: Yeah, this recommendation is a little simpler. It didn't quite need a table we didn't
35 think.

36
37 Chair Hechtman: Perfect. So, Mr. Sauls any elaboration?

38
39 Mr. Sauls: It's somewhat clear as to what we had maintained before. Staff doesn't feel that
40 there's a need to have a doorway between units that are attached to the primary unit.

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1
2 Ms. Tanner: And I would say that the Junior Accessory Dwelling Units would be allowed to still
3 have a door but an ADU that's attached would not. And that's the current regulations and we
4 would support maintaining that.

5
6 Chair Hechtman: Mr. Popp?

7
8 Mr. Popp: Thank you. So, I think that this is maybe best illustrated by a conversation I have with
9 a potential client today who has a daughter with MS. She wants to build her an independent
10 unit that has a bathroom and a kitchen in it and allow her to live independently but provide
11 care for her when she needs it. And the idea that she would have to exit her house at 3:00 a.m.
12 to go take care of her daughter, potentially walking outside in the rain and then going through
13 the front door of the ADU, just seems ludicrous to me. And I would latch back onto what I sort
14 of heard Commissioner Lauing say earlier today which is that people are just going to break the
15 rules if they want to and this is the case where I actually have a client who framed in a door and
16 as soon as they were done with final inspection. They just put the door in because they needed
17 to be able to get to their mother who was living in an ADU and they didn't want to have to go
18 outdoors to get to her. I just don't understand why we would regulate something like this and I
19 think that most of the people who are part of the task force think that this is just an entirely
20 unnecessary restriction. Thank you.

21
22 Chair Hechtman: Thank you, Mr. Popp. Commissioner Templeton.

23
24 Commissioner Templeton: Thank you and thank you so much for sharing that anecdote, Mr.
25 Popp. I was preparing my own anecdote about why I think this is a good idea and I would like
26 the PTC and Staff to maybe look into ways that this... we could all become more comfortable
27 with this. Before I moved out here one of the last magazines I received in my old hometown
28 was a southern living architecture stage of life article and because it was the last one I had with
29 me when I moved away. I read it over and over and over again and it was absolutely beautiful
30 about building a small and then expanding it and having an apartment for your grown kids or
31 being able to move there when you're older and renting out your house. And all these different
32 possibilities of how it could be used and it was exactly this scenario. It was a home and an ADU
33 with a door that could be potentially opened if needed for the caregiving situation or it could be
34 completely closed off if there was a separate family unit... using it. So, I think just being able to
35 design with flexibility in mind and understanding that uses change over time is something that
36 we could safely acknowledge. I feel comfortable with that. So, I just wanted to throw that out
37 there that there are a lot of scenarios in which being able to access that unit could be
38 beneficial.

39
40 Chair Hechtman: Commissioner Alcheck.

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MOTION #8

Commissioner Alcheck: Look, I think there are members of the community who without evidence to the contrary will have... they read language like the concern expressed previously is that units will be treated as an addition to the house rather than as a separate housing unit. This language suggests someone is going to do something they shouldn't do and it's like oh, they're going to get away with something. They built a full kitchen, a fully bathed... a bathroom, and a housing unit but they're going to use it as an extra room. The logic fails the minute we acknowledge that we don't really care if it's a JADU. Why because the JADU doesn't have a full kitchen? No. If it's a JADU we don't mind if it gets treated as a... what do they call it? An addition to the house. I mean there's probably plenty of people who are going to build an ADU and they won't put a door between the two because they're going to want it to feel separate, but for every single person that is considering this as an in-law unit, which is, by the way, the other name used for ADUs informally, that person probably wants a door. Maybe they don't use the door. It's one of those doors you only use in the case of emergencies but if it's an in-law unit, if it's that sort of scenario where the two are touching as opposed to outside and separate, detached. I mean the logic fails. So, this seems to me like let's not. I'm not going to make any more comments just to say that I would like to suggest... I move that we remove this limitation and stop treating it like it's some sort of nefarious intent on the rich and then the other wise resourceful and move on.

Chair Hechtman: Commissioner Templeton.

SECOND

Commissioner Templeton: Thank you. I'm happy to second that motion, Commissioner Alcheck. I had raised my hand to share another anecdote that I hadn't realized until after my turn passed but the... before we moved to Palo Alto I was... we were living abroad and we lived in a home that had just such a door for the owners. While they were abroad they were renting to us and they kept their unit and it was completely separate. The door existing but it was very secure and locked and not part of our living space and that worked just fine. There was nothing suspicious about it or they had their privacy and we had ours and it was simply just another architectural feature of the home.

So, I think that I'd be really interested to see if Staff could come up with some suggestions on how we can make this a possibility in certain homes in Palo Alto ADUS... with ADUs.

Chair Hechtman: Other Commissioners? Alright, I'll go, I don't see any other hands. So, on this one, I am not supportive of the motion and I am supportive of Staff's position on this because

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1 the concern I have is that people will build these units and not use them for their in-laws and
2 not use them for unrelated relatives, but instead, use it as a guest room for the 7-days a year
3 when somebody comes to visit them and they'll be able to do that because there's a door. And I
4 don't... and I think that that will in many cases be the primary use of this additional structure
5 and that's not its intention. Our desire is to fill these things 100 percent of the time with people
6 who otherwise have to live some place else and so I don't want to do anything to encourage
7 people to use it for anything other than to address our critical housing needs. And I think that
8 allowing the doorway does that and since we can't regulate who gets to stay, I don't know
9 another way to do it. So, I suspect this motion will pass without my support but that's why I
10 won't be supporting it.

11

12 Any other... let's see, Commissioner Summa and followed by Commissioner Lauing.

13

14 Commissioner Summa: Thank you. I'm inclined to agree with Chair Hechtman and I'm... and
15 Staff seems to have the same concern and I'm pretty sure people will put in doors after the fact
16 if they want to. But I also worry about a scenario where it's a privacy issue, not to... to have a
17 door there and that could be abused, but I don't feel that's strongly about it but I do lean
18 towards Commissioner... Chair Hechtman's view.

19

20 Chair Hechtman: Lauing?

21

22 Commissioner Lauing: Yes, I do understand both sides of this issue, and Mr. Popp and
23 Commissioner Templeton's suggestions or examples are... they're fair. I don't hear Staff saying
24 however that they can figure out any way to do an exception based on an application or
25 someone's illness and on top of which as Commissioner Hechtman [note – Chair Hechtman]
26 said, we can't control that for the next tenant so that's a problem.

27

28 I think that the other solution and maybe I'm speaking in a vacuum here but the other solution
29 is the other kind of ADU which is an attached ADU. So, that would not fit every scenario but it
30 would allow that door there. So, I'm really... I'm... I get both sides but unless Staff can come up
31 with something to meliorate it, I'd probably just stay with their current recommendation.

32

33 Ms. Tanner: I would... just to respond to your comments Commissioner Lauing, that is pretty
34 accurate. We wouldn't want to do anything that's based on the user. It's the use and the
35 structure because that will be there regardless of the owner and the operator. And so, it would
36 really be that either we allow doors between units or we don't and Staff did feel that by
37 allowing the door between a JADU. It did provide an opportunity for the situations that have
38 been discussed; to have a unit where it is a family member that is accessible from the primary
39 unit. Again, notwithstanding the other arguments but that was why we landed where we did.

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1 Certainly, the... it's essentially, we either have... allow the doorways or we don't allow the
2 doorways. That really is the choices I believe.

3

4 Commissioner Lauing: Yeah so, the option to have a JADU in some circumstances in these
5 difficult cases does give an alternative which means I will not support the current motion.

6

7 Chair Hechtman: Commissioner Templeton, your hand is it still up or up newly?

8

9 Commissioner Templeton: I put it back up again. I just wanted to say we have so many
10 wonderful people in our community who are members of the disabled community and that
11 want to encourage their children as they age to be as independent as possible; while
12 understanding that they can't necessarily live the independence levels that other people can.
13 And I think that the distinction here if it's ok for one type of unit but why it's not for the other
14 type of unit? It starts to feel arbitrary and I just want to encourage, you know, we're not asking
15 to make this decision. We're asking Staff to take a look. That we're not necessarily reinventing
16 the wheel here. There are other areas that have dealt with this and there might be a better way
17 to frame it, phrase it, understand it, or regulate it that we haven't looked at. And so, I just want
18 to think about ways, you know we've been talking about ways to keep members of our
19 community and make sure everybody feels welcome and use this for the housing crisis.
20 Especially for very-low-income and our disabled community. This is an option for us to think
21 about so you don't have to make the decision today. You can just ask Staff to look into it. I
22 encourage you to do. Thank you.

23

24 Chair Hechtman: Commissioner Alcheck.

25

26 Commissioner Alcheck: Ok, I'm going to try to take another crack at this. Seeing if I can get you
27 Chair Hechtman and maybe others to come over the fence. If there is one legitimate person in
28 this community who wants to be closer to their MS child or in-law and they would use a door.
29 To put them into a position to break the law seems almost criminal. To put them in a position to
30 have to choose a JADU when they could build a fully ADU and potentially increase the value of
31 their home so that when they sell it in the future. They have more to leave to whoever they
32 have to leave it. To put them in a position where they have to make decisions that are
33 financially less reasonable seems illogical to me. The person you're worried about, encouraging
34 to do something that you don't think should be done, is going to do it anyways. So, the person
35 who you could help here, you're going to put them... you're going to put this wonderful person,
36 this angel, in a position to have to break a rule.

37

38 So, I would suggest to you that if it meant that only one person used it appropriately. It was
39 worth allowing that rule so that that person didn't have to live as a rule breaker. It should
40 bother us... it should bother our conscious that we would... because if you're so sure it's going

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1 to get done anyways. Then I would rather the person who needs it doesn't feel like they've
2 broken a rule. They don't have to ask their architect to come back after the final inspection and
3 make it happen for them because frankly, that's degrading. They're trying to do the very best
4 they can possibly do and who cares if it's got a full kitchen versus a not full kitchen? So, I'm...
5 let's not... if we're so sure it means nothing then just on the optics, let's make the person who's
6 doing the right thing feel better about it.

7
8 Chair Hechtman: I'm not seeing any other Commission hands but let me ask a question because
9 I'm not sure I understand. Under our current regulations, an attached ADU cannot have a door
10 to the main residence. Is that right, Ms. Tanner?

11
12 Ms. Tanner: That is correct. Yes, that is correct.

13
14 Chair Hechtman: And under our current regulations can a JADU, which definitionally must be
15 attached, does that have a door into the main... can that have a door into the main residence?

16
17 Ms. Tanner: It is allowed, yes.

18
19 VOTE

20
21 Chair Hechtman: Alright, then I'm not seeing any other hands. We have a motion essentially to
22 adopt the task force recommendation and to move forward with ordinance language to
23 accomplish that. So, Mr. Nguyen, will you conduct a roll call?

24
25 Mr. Nguyen: Commissioner Alcheck?

26
27 Commissioner Alcheck: Aye.

28
29 Mr. Nguyen: Chair Hechtman?

30
31 Chair Hechtman: No.

32
33 Mr. Nguyen: Commissioner Lauing?

34
35 Commissioner Lauing: No.

36
37 Mr. Nguyen: I'm sorry, can you repeat that?

38
39 Commissioner Lauing: No.

40

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1 Mr. Nguyen: Commissioner Summa?

2

3 Commissioner Summa: No.

4

5 Mr. Nguyen: Commissioner Templeton?

6

7 Commissioner Templeton: Yes.

8

9 Mr. Nguyen: The motion does not carry.

10

11 MOTION #8 FAILED 2(Alcheck, Templeton) -3(Hechtman, Lauing, Summa)-0- 1(Roohparvar
12 absent)

13

14 Chair Hechtman: Thank you. Alright, we are moving to a new category of these items. The last
15 category which is topics requiring additional analysis. So, on these items, we're really telling
16 Staff whether we think it's worth their time to continue to conduct additional analysis or stop
17 making that effort, turn your attention to other things on your 410 Program list. So, let's start
18 with... Mr. Sauls, you are quick with your slides tonight. So, we're going to first talk about
19 incentives to maintain street-side setbacks on corner lots. Mr. Sauls?

20

21 Mr. Sauls: Sure, so to kind of set the stage, this whole conversation is driven a lot by the recent
22 updates to the state code where they had identified that ADUs have a 4-foot side and rear
23 setback. And under their understanding and their interpretation that that also applies to street-
24 side setbacks. In the previous Staff report to PTC and Council, we had tried to gather some
25 information on whether or not we wanted to pursue one thing versus the other and we didn't
26 really receive any feedback on that. So, we took that as a means to say we... the PTC and
27 Council were excepting of what the current regulations are for the 4-foot setback.

28

29 That being mentioned or that being said, we also recognize that there's a streetscape context,
30 an urban design issue that comes about when you may have a 4-foot structure compared to
31 something that may be adjacent to it. If you imagine in the example that we have here. Maybe
32 something where you have a front yard adjacent to a corner lot's street-side yard where you
33 may be progressing from something that may be a 4-foot setback over to a 20-foot setback. In
34 that streetscape context is something that the City has established through their front yard
35 setback and their street-side setback. We've identified that those visual elements are important
36 and so what HCD has said is that we could... that we, the City, can also provide incentives to
37 encourage individuals to follow maybe what might be something that the City wants to have.
38 So, that may be something where we push... we give them some other sort of benefit to placing
39 the unit in an otherwise less optimal location or consuming some other space on a corner lot;

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1 which we understand and recognize having notorious difficulty when it comes to developing
2 their site just with their primary... for their primary home.

3
4 So, in the Staff report, we've identified a couple of items to the PTC to give us feedback on
5 whether or not we should consider these potential incentives for encouraging some sort of
6 consistency in terms of the streetscape design or urban design context for ADUs. So, you see in
7 the Staff proposal the three items that we had identified so potentially removing the
8 requirement to convert an existing garage. The language in the state code and the City code
9 says that for an ADU converted from a garage, it has to be something that exists, which in total
10 results in a two-step process that from a standpoint of our regulations it may mean a matter of
11 shifting a location. A garage on a corner lot can't be any closer if it's on the street side yard than
12 20-feet. However, an ADU can be at the 4-foot setback. If we remove the requirement to
13 convert that, it changes that playing field of where you're trying to establish that. We can then
14 additionally say ok, if you're going through this additional process which is beyond what the
15 state code established, we can make... we can say ok, if you're going to do that, we save you
16 some money, we save you some processing time but then you also accept that you're going to
17 have your garage or your ADU at this distance or this setback. It doesn't have to be 16-feet if
18 the PTC doesn't agree with that threshold but that's all part of this discussion. It's not
19 something that we've currently adopted in other regulations in our code.

20
21 The second one is talking about potentially providing additional square foot bonuses for the
22 lots. This one is maybe not as great, to be honest, and frank is not as great as some of the other
23 two... as... to me the two other items. Mostly because of what I indicated before which is that
24 corner lots are notoriously difficult to develop and so that while it may provide people an
25 opportunity to develop a larger unit or maybe get some bonus square footage. Perhaps it may
26 not necessarily give the incentive that we want.

27
28 And the last item is about potentially reducing the main house's setback to a 10-foot
29 requirement if they follow an ADU setback of 10-feet. So, that is shown in this image that you
30 see on the screen here where for any corner lot that has a width of less than 50-feet. We
31 currently allow for the street side setback to be 10-feet instead of 16. This would have some
32 mirroring within our language if we were to encourage something like that but would also then
33 provide a homeowner an additional incentive to develop at a corner lot while maintaining some
34 consistency or contiguously of the streetscape design we have been establishing through our
35 just subdivision of properties in the City.

36
37 Chair Hechtman: Thank you, Mr. Sauls. So, the task force didn't provide any input on this and
38 I'm not going to encourage Mr. Popp to come up with some but want to find out if the task
39 force does have a position.

40

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1 Mr. Popp: Not at this time. Thank you very much.

2

3 Chair Hechtman: Alright, Commissioners, who would like to speak to this item? Commissioner
4 Lauing.

5

6 Commissioner Lauing: I want to ask a couple of big picture items here because this is very
7 complicated in terms of the alternatives that you're putting down and the first question is
8 basically you're saying that state law can trump... I'm sorry, that local law can trump state law in
9 terms of these setbacks?

10

11 Mr. Sauls: Not for the 4-foot setback. In terms of what someone can still do, they could opt
12 instead to choose this incentive that we provide, whatever it may be, but it would not prevent
13 them or prohibit them in the future from saying you know what? I just want to build an ADU to
14 a 4-foot setback. It would instead be following things like what you see under Table 2. Maybe it
15 would be an additional section that speaks to if you are looking to follow some additional
16 restrictions to ADU placement, you may get these additional benefits. Maybe something similar
17 to what would be a future discussion on affordability.

18

19 Commissioner Lauing: But that smorgasbord of goodies trumps the state law requirement that
20 it has to be 4-feet? Only 4-feet.

21

22 Ms. Tanner: If someone chooses it. So, I think just to... and maybe that's what you're saying. We
23 were trying to figure out what's the right package of incentives that would make someone say
24 you know what? I'll go with what you have instead of the 4-foot setback.

25

26 Commissioner Lauing: Ok and the second question is, have you done any inventory on how
27 many corner lots there are? I mean as I kept reading this I kept thinking how many places are
28 we talking about because if it's going to make a lot of difference to get a lot of units. Then we
29 should probably go through this for the next 45-minutes but if it's not, then it might be
30 something that could be postponed.

31

32 Ms. Tanner: Yeah, I mean I think it's less about how many corner lots there are which there are
33 many, we could probably count them up, and more about what's the impact of an ADU 4-foot
34 from the sidewalk on a corner lot and whether or not that's a concern that we want to try to
35 minimize; or we say it's what will happen will over time and over time many corner lots that
36 chose to have ADUs would have that pattern at least for the ADU. But then you have in the
37 image in the center the main home would be at a different alignment. So, some might say that
38 that's an urban design impact that over time we would not want and therefore we would want
39 to move something closer to say, let's say the image on the right where there's alignment at
40 least. Even if it's closer or to Garrett's point perhaps it's even located somewhere else in the lot

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1 because we've let them use the garage and do some other things to move it around. So, that's
2 not an answer to your question but I think we're more just thinking about what kind of... what's
3 the urban design impact over time of ADUs being 4-feet from the sidewalk and kind of
4 disrupting the pattern that we have established in terms of where the main home is on those
5 corner lots.

6
7 Commissioner Lauing: And some of your solutions as you pointed out are sort of eureka kind of
8 moments. You know this is like the perfect solution so there's some grinding through here so
9 my times up. I'm going to respect the timing.

10

11 Chair Hechtman: Thank you, Commissioner Lauing. Commissioner Alcheck.

12

13 Commissioner Alcheck: Would you mind going back to the picture with the... the slide with the
14 pictures? So, here's the deal, the only scenario in my mind that someone won't do this is if they
15 appreciate the impact on the aesthetics the same way that the City feels that it's so disruptive
16 to the streetscape. I can imagine a number of scenarios where they won't feel that way. The
17 biggest problem with a corner lot is that you have no rear yard and not only do you have no
18 rear yard, we have some crazy rules about fencing so you don't have a very private rear yard.
19 And so that's... so when you put that situation up against the placement of the ADU, you have
20 already an impacted rear yard. If the person that wants to build the ADU can avoid impacting
21 the rear yard, the private rear yard, even more, they're going to do it. So, your incentives are
22 really poorly inline.

23

24 I think the rationale is probably smart. Can we give them something that will make them choose
25 and I think I would just suggest to you that I would... if we were going to move something here I
26 would move that you do contemplate this strategy. And my recommendation would be to look
27 for something really good because it's... this is... it will be odd if there's... it will look like RVs are
28 parked in... let me quickly. I think Staff member Sauls said something that I was not familiar
29 with which is that by default you treat the shorter side as the street front side?

30

31 Mr. Sauls: Right.

32

33 Commissioner Alcheck: Is there a scenario where... are there older... like if you have an older
34 home that is developed differently. If you were to rebuild, you'd have to reconfigure, or would
35 the ADU apply... if your older home is configured into such a way that you face the longer side
36 with your front door, your address, and your driveway. Would that... would the ADU still treat
37 that side as the side yard?

38

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1 Mr. Sauls: Yeah so, the way the code is written right now is it's established that the shortest of
2 the two street-facing sides is the front yard. So, even if the house is facing one way or the
3 other, it's non... it doesn't matter (interrupted)

4
5 Commissioner Alcheck: So, on the front side the state doesn't have a problem. You can do 20-
6 feet or if it's on a specific street 16? Whatever the front setback is.

7
8 Mr. Sauls: Yeah.

9
10 Commissioner Alcheck: But on the side... on the street side, they don't distinguish between the
11 16 and 4 and so it could be 8-feet closer than other parts of the house?

12
13 Mr. Sauls: Yeah, they just say your side yard basically and that broadly encapsulates street side
14 yard in their interpretation.

15
16 Commissioner Alcheck: I mean I would... so if I was going to suggest I would support the idea of
17 looking into incentives. I would encourage you to consider everything from allowing fencing,
18 taller fencing closer to the property line than you currently do. I think you... I don't know for
19 sure but can fencing be close... and 6-foot tall fencing be closer than 16-feet?

20
21 Mr. Sauls: Only in a back-to-back corner lot configuration in which case it's based on I believe
22 50-feet from the intersection. This [unintelligible] point here (interrupted)

23
24 Commissioner Alcheck: Right which (interrupted)

25
26 Mr. Sauls: And then you have 6-feet [unintelligible] (interrupted)

27
28 Commissioner Alcheck: Well, yeah, that makes sense because imagine if this guy builds his... a
29 box right next to your front yard. This is... maybe you allow some pretty nifty two-story ADUs
30 here. I mean I don't know. I think there's... this is a place where I just assume the architects
31 would have more assistance. So maybe this is an opportunity for Staff to reach out to the
32 architects and say give us your best thoughts on how we overcome this problem because what
33 we really don't want is for every corner to do this. And it really will cause some issues so maybe
34 this is a good chance for you guys to reach to the task force.

35
36 Chair Hechtman: Other Commission comments? I'm not seeing any hands so I will go while
37 other Commissioners compose any thoughts that they have. So, I am supportive of Staff moving
38 forward with this concept and continuing to analyze it and in the Staff report they've laid out
39 three possible incentives. First, regarding the garage, second bonus FAR and/or reduced
40 setback, and third 10-foot street side setback if combined for a house if combined with the

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1 ADU, JADU. And I'd be supportive of that except I've commented before that the street side
2 yard, it's a frustration to me that those corner lots have to not only give the, I think it's 20 or
3 25-foot front yard, but 16-feet more on the side. And so, I'd like to see all three of these
4 incentives incentivizing for a 10-foot side yard street side yard. The third one is already doing
5 that. I'd like to see the first one which Staff states as if you'll keep it at 16-feet then you can
6 construct the new home with the ADU at the same time. I'd like to see that at 10-feet and on
7 the bonus FAR and reduced setbacks, they didn't really... Staff doesn't describe in the Staff
8 report how many feet they were thinking so my presumption was they were thinking of the
9 standard 16. So, what I'd like is I'd like to see us move with ADU to a 10-foot street side rear
10 yard so that would... I would be supportive of that.

11
12 Commissioner Alcheck: Commissioner Hechtman [note – Chair Hechtman], can I ask a
13 question? I just (interrupted)

14
15 Chair Hechtman: Commissioner Summa.

16
17 Commissioner Alcheck: Can I get a clarification? Where one of your suggestions an exchange for
18 some distance the front yard setback would go from 20 to 16? Maybe I just didn't (interrupted)

19
20 Chair Hechtman: No, I'm not touching the front yard setback. It's only the... to basically creating
21 three scenarios where there would be an incentive that would allow you to reduce the street
22 side yard to 10-feet.

23
24 Commissioner Alcheck: Got it. Ok, understood.

25
26 Chair Hechtman: Alright, Commissioner Summa you're next.

27
28 Commissioner Summa: Yeah, I appreciate that corner lots really are tricky so I think this needs
29 to be looked at. I think A of the three solutions provided is kind of a no-brainer to me. If
30 somebody's building a new house why make them do that two-step process? I'm less convinced
31 about B and I think C could be ok but definitely A. So, I think Staff should look at this a little
32 more and maybe come back with some ideas rather than us being totally prescriptive this
33 evening.

34
35 Mr. Sauls: Maybe I can help to clarify that this... I don't think our intention was to say one or the
36 other but it could be also a combination of these things. And I think Chair Hechtman, I think
37 that's what maybe you at one point might have been suggesting is potentially a combination to
38 better support not just one of these things but additional things on top of that.

39
40 Chair Hechtman: Yes. Commissioner Alcheck.

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Commissioner Alcheck: Let me just ask this question because it's unclear to me but is there a scenario where someone could build an ADU 4-feet front a front yard line?

Mr. Sauls: No, so currently our understanding of the state code is that it's specifically looking at the interior side of rear lot lines.

Commissioner Alcheck: Ok. I need to look into that because I feel like... I thought that theoretically, it was possible. So, I would suggest a few things while I was sitting here listening. Maybe we could have a greater bonus instead of... what is our current... 900? Bump it up to 1,200 to incentivize conformity. I would suggest to you that we're comfortable all over the City with a 16-foot distance from what we call side street and there are a number of houses where the orientation are kind of on and off depending on the length of the side. Maybe depending on when they were built and so maybe if we said that you could have 16-feet from either because there's no distinguishing it. On one side you're 16, on the other side your 20. Maybe we could say you could be 16 from each in exchange for conformity because we've already gotten comfortable with 16 for so many houses. Particularly, the longer side of so many houses and then I would say here's a good opportunity for no Impact Fees. Money speaks so those are three suggestions that you can consider.

Chair Hechtman: Alright, other Commissioners? I'm not seeing any hands up. Does anyone want to make a motion?

MOTION #9

Commissioner Alcheck: I can move that the Staff consider all of the suggestions we made tonight regarding incentives and try to put forward some proposals for us to review.

Chair Hechtman: Second?

SECOND

Commissioner Lauing: Yeah, I'll second.

Chair Hechtman: Thank you, Commissioner Lauing. Any discussion on the motion? Commissioner Summa, your hand is up.

Commissioner Summa: I was just going to second it but I think somebody else did. No, I think that seems like a reasonable approach so I agree.

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1 VOTE

2

3 Chair Hechtman: Mr. Nguyen, will you conduct a roll call vote?

4

5 Mr. Nguyen: Commissioner Alcheck?

6

7 Commissioner Alcheck: Aye.

8

9 Mr. Nguyen: Chair Hechtman?

10

11 Chair Hechtman: Aye.

12

13 Mr. Nguyen: Commissioner Lauing?

14

15 Commissioner Lauing: Yes.

16

17 Mr. Nguyen: Commissioner Summa?

18

19 Commissioner Summa: Yes.

20

21 Mr. Nguyen: Commissioner Templeton?

22

23 Commissioner Templeton: Yes.

24

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

26

27 MOTION PASSED 5(Alcheck, Hechtman, Lauing, Summa, Templeton) -0-0 -1(Roohparvar absent)

28

29 Chair Hechtman: Thank you. Alright, we have still a little bit of time so we will move to Item C
30 Two, retracing prior deed restrictions.

31

32 Ms. Tanner: I think we also don't have a slide for this one. It's fairly straightforward in that it's
33 something that Staff can work on a process to do should the PTC think that's a good idea.

34

35 Chair Hechtman: Commissioner Alcheck.

36

37 MOTION #10

38

39 Commissioner Alcheck: Yeah, this, come on, this is a no-brainer. We shouldn't have done it at
40 the time. It was a terrible tool to use, to use deed restrictions. They almost always are difficult

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1 to... they just create neighbor on neighbor problems. So, we are... we should... I move that the
2 City figure out a way to just rescind those so that those several few people who did this in the
3 being aren't penalized for being early movers.

4

5 Chair Hechtman: Commissioner Summa I see your hand. Let me find out if there's... if you want
6 to second, that's fine, otherwise, let me see if there is a second for the motion.

7

8 SECOND

9

10 Commissioner Summa: I'll second it. I had my hand up before the motion but I will second it. I
11 think that makes sense and I always felt that there should have been a waiver process for
12 people who are going to be leaving their primary home for a year or two, to work someplace
13 else. So, I think it makes sense so I'll second it.

14

15 Chair Hechtman: Other Commissioners? Commissioner Lauing.

16

17 Commissioner Lauing: Just a quick question, I have no problem with the proposal at all. I'm just
18 wondering if by default if it takes out those folks that were in there? If the new law takes care
19 of the process?

20

21 Ms. Tanner: That's a good question. I think the City Attorney can speak to that. I think what it
22 doesn't do though is remove from their deed language that they have and that might be a
23 problem for them.

24

25 Mr. Yang: Yeah, the state law does not change the City's ability to require owner occupancy of
26 existing and prior units that were constructed or that were permitted were issued before 2020
27 so.

28

29 Commissioner Lauing: Ok, so we have to get it out of there or it will just stay there?

30

31 Mr. Yang: Yeah (interrupted)

32

33 Commissioner Lauing: Ok, got it.

34

35 Mr. Yang: And it's basically the state law created a 5-year period from 2020 to 2025 where the
36 City couldn't require owner occupancy. So, if you built before 2020 or if you're... you know
37 unless the law changes if you come in after 2025, the City can require owner occupancy but not
38 within that 5-year stretch.

39

40 Commissioner Lauing: Ok, great. Thank you.

-
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Chair Hechtman: So, I have a question, I think retracting these prior deed restrictions will actually increase the supply of housing because now maybe people who thought they couldn't rent their ADU unless they were living in the main house and maybe they don't want to be living on the main house. So, they wouldn't rent the ADU but now they can move away without breaking the law and rent both. And so, my sense is this will increase our housing stock and I was wondering if Staff had an impression one way or the other on that?

Ms. Tanner: It's difficult to say exactly but I think certainly that would track with I think some folks who would be more conservative about again, wanting to stay on the right side of things. And certainly, as I think Commissioner Alcheck was suggesting if your neighbor knows you have this deed restriction and that you are renting and they don't have an issue with that. Then it creates an enforcement issue and that could become very messy certainly.

Chair Hechtman: Thank you. Commissioner Templeton.

Commissioner Templeton: I have a question about the deed restriction and maybe we can have another conversation offline but if it's just a matter of signing a notarized document to get certain deed restrictions removed. I can think of some other kinds of deed restrictions or at least non-enforceable documents that still have to be handed down from owner to owner that we may want to look at removing as a City. So, I just want to throw that out there for future consideration.

Ms. Tanner: Certainly. In part, we'll learn as Staff is just that process and how we would even set that up and effectuate that for this or other topics.

Commissioner Templeton: Yeah, I think that could be really beneficial on other levels, not ADU-related so I will follow up with you guys offline about that.

Chair Hechtman: Commissioner Alcheck.

Commissioner Alcheck: Yeah, no I just want to provide a little context. I have been lobbying against this for over 5-years since we enacted this. I've been the only Commissioner who's opposed this tool. I will remind those of you who were on the Commission, I said something to the effect of imagine there's... there was a real-world example of a person who was renting out their ADU. They were a Stanford family and they were going to teach... they were going to go a year away and they couldn't and they had to basically remove this housing unit from the stock because they couldn't provide two places to rent and just how shockingly absurd it was for us to have this rule. And if in 5-years we can eventually bring this rule back, I hope you will all remember that we shouldn't and that this was a mistake back then. And I indicated how it

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1 would affect the housing stock and there was a real example. And I'm so... I feel very redeemed
2 that it seems like all of you are in support of removing this now, really.

3
4 Chair Hechtman: Alright, I don't see any other hands, and owing to the lateness of the hour I'm
5 pretty sure we have a motion with a second. We do? Good. Alright, then I think we are ready
6 Mr. Nguyen for a roll call vote.

7
8 Mr. Nguyen: Commissioner Alcheck?

9
10 Commissioner Alcheck: Aye

11
12 Mr. Nguyen: Chair Hechtman?

13
14 Chair Hechtman: Aye.

15
16 Mr. Nguyen: Commissioner Lauing?

17
18 Commissioner Lauing: Yes.

19
20 Mr. Nguyen: Commissioner Summa?

21
22 Commissioner Summa: Yes.

23
24 Mr. Nguyen: Commissioner Templeton?

25
26 Commissioner Templeton: Yes.

27
28 Mr. Nguyen: Ok, the motion carries 5-0 with one Commissioner absent.

29
30 MOTION #10 PASSED 5(Alcheck, Hechtman, Lauing, Summa, Templeton) -0-0- 1(Roohparvar
31 absent)

32
33 Chair Hechtman: Thank you. So, it's 10:45 and we have one item to go. So, let's just power
34 through it and get it done. So, that item is the Item C Roman III, Flood Zone height extension.
35 Mr. Sauls?

36
37 Mr. Sauls: Sure, so overall what we currently have in our ordinance is that ADUs do not benefit
38 from Flood Zone height extensions as they're allowed to build and constructed up to 16-feet in
39 height. As we identified in the Staff report allowing for these units to gain additional height
40 could provide additional impacts, massing, and privacy, to adjacent neighbors that would not

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1 otherwise normally be provided to any other sort of accessory building like a garage or shed, or
2 studio. So, the current benefit that we do provide for primary homes is that if you're in a Flood
3 Zone, you're allowed to increase your... the height of your building to ½ of what's needed to
4 reach your base flood elevation; which if you had a 3-foot height increase that's needed, you'd
5 be able to increase the house by a foot and a half.

6
7 Similarly, for Daylight Plan we say that you can increase the amount [unintelligible] to what the
8 increase in BFE is needed. So, if it's a 3-foot height increase for BFE... to meet the BFE, then you
9 can do the same for your Daylight Plan.

10
11 Right now, I think similar to what we identified before in the Staff report about impacts on how
12 close these structures are and how much more of an impact they can be if they become taller
13 than 16-feet. It is where Staff currently feel we don't need to make a modification to this as it
14 would, in terms of increasing the amount of height or providing for additional height increase, it
15 would probably affect not so many projects that we'd be receiving in the City.

16
17 Chair Hechtman: Thank you, Mr. Sauls. Mr. Popp, what can you tell us... what can you add from
18 the task force?

19
20 Mr. Popp: Thank you. So, just very briefly I do want to ask Mr. Sauls if he is aware of what the
21 greatest Flood Zone height is in Palo Alto? It would be helpful to explain that I think.

22
23 Mr. Sauls: I believe it's 30... I think it's AH325 or something. It's either that or AH10 if I
24 remember correctly (interrupted)

25
26 Mr. Popp: Which represents what height above the BFE?

27
28 Mr. Sauls: Based on your elevation or your topographical elevation, you typically need to
29 meet... if you're at 70-feet and your base flood elevation is 80-feet and you obviously need to
30 be increasing your house to meet that threshold.

31
32 Mr. Popp: Right and I guess I was just asking briefly if you could share what is the greatest
33 differential in Palo Alto that you're aware of? I'm aware of a 4.5-foot differential where the
34 first-floor elevation because it's required to be 12-inches above the BFE, has to be 4 ½-feet
35 above the height of grade in the area; which means that you would only have 11 ½-feet to build
36 a structure in; which means that you would be more restricted in the construction of an ADU
37 than you would in an accessory structure. And I just don't... again, I'd like to go back to what
38 Commissioner Alcheck had suggested on some earlier items. I think consistency is key here and
39 the idea of limiting an ADU on a property that is in a Flood Zone and much of Palo Alto is a
40 Flood Zone. Many of the properties that I work on are and one of the properties I'm working on

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1 for an ADU right now is. This becomes a very, very difficult constrain and so I'd like to
2 encourage the Commission to really consider their approach to this. Thank you.

3
4 Chair Hechtman: Thank you, Mr. Popp. Alright, let's go to Commission questions and
5 comments. Commissioner Alcheck.

6
7 Commissioner Alcheck: I'll just say I approached this Flood Zone thing from the following
8 perspective which is Flood Zones really don't... Flood Zone homes really have a unique level of
9 constraints. They're not allowed to build basements. They have quite restrictive rules about
10 how they place their property. So, from my perspective, homes in the Flood Zone that are
11 newly constructed, that are constructed properly, are built with this higher threshold. In theory,
12 all the homes would be a little higher than everywhere else in Palo Alto and I think that's a
13 small little... it's like we're giving them a little extra. And obviously, it's not as if they didn't
14 realize they were buying into a Flood Zone but the point is that they have less options with their
15 home.

16
17 And in particular, I think with the ADU I just think... I guess what we're talking about here is if
18 you have to... I mean if that number is correct, let's say somewhere around 3 to 4 ½-feet, then
19 you would basically be increasing the height of the ADU from 16 to a maximum of 17.5 or
20 maybe 18 and a quarter because you take the increase of the floor and you take half of that?
21 So, if you increase the floor over grade by 3-feet, then you allow the main residence to have a
22 total height 3-feet or 1 ½-feet taller.

23
24 Mr. Sauls: Right.

25
26 Ms. Tanner: That's correct.

27
28 Commissioner Alcheck: So, in comparison, a single-family home in Palo Alto can be 35-feet tall.
29 Is that correct?

30
31 Mr. Sauls: 33 (interrupted)

32
33 Commissioner Alcheck: 33-feet tall and if it was in the Flood Zone it would have to be 3-feet
34 taller. It could be a total of 34.5-feet.

35
36 Mr. Sauls: Sorry, the maximum height is... sorry, I miss understood. 30-feet is the maximum
37 height, 33 is the maximum you could get if you needed to increase it per BFE.

38

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1 Commissioner Alcheck: Ok, ok, so there we go, 30-feet is the maximum height you could go and
2 for every foot, you raise your floor in that situation, because you're in a Flood Zone kind of
3 scenario, you can raise your ceiling in that 35-foot height limit by half a foot.

4
5 Mr. Sauls: Correct.

6
7 Commissioner Alcheck: And so here we're talking about 16-feet and if you got to raise your
8 floor 3-feet. Then you could theoretically go instead of 16-feet to 17 ½.

9
10 Mr. Sauls: Correct.

11
12 MOTION #11

13
14 Commissioner Alcheck: I mean to me I think that's... I don't think that's such a big deal. I don't...
15 I don't even think it's that noticeable to be perfectly honest. Especially in a community where
16 everything's a little taller and so I agree with the suggestion that this... that Randy Popp made
17 about sort of consistency. It would look sort of odd if I guess your interior... I don't know. It just
18 seems to me like you would want your interior floor heights to be standard and so but I think
19 the ADUs might all be very different than the main residence. But I guess what I'm trying to say
20 is I think particularly because you don't know if the back of the yard is sloping down it could be
21 even more impacted by the Flood Zone or less. Who knows? I think you want to give people a
22 little flexibility because if you don't we may not appreciate how that will actually play out on
23 the architectural... on the architect's desk. So, I would defer to the architects on this one and I
24 would support a motion of applying the same rules to the main residences that we do to the
25 ADU. Considering that they are both dwelling units as opposed to a garage which not a dwelling
26 unit.

27
28 Ms. Tanner: If I may? One just thing to add not... doesn't contradict your motion Commissioner
29 Alcheck but just to note. There will be coming forward to City Council some updates to how we
30 do the base flood elevation and state laws requires that we actually be 1-foot above the base
31 flood elevation. Again, it's not a huge difference in height but just to add that to the calculation
32 and so if we are treating the Accessory Dwelling Unit the same as the main unit. That still would
33 continue. The parody overall dwelling units on the site would continue but just another update
34 that's coming and hasn't been implemented quite yet.

35
36 Commissioner Alcheck: So, are you saying that the new regulations would actually push floors
37 higher? So, basically what I hear you saying is we're keeping the ceilings at the same place but
38 we're pushing the floors higher and it seems to me like that's just making ADUs may be less
39 comfortable.

40

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1 Ms. Tanner: No, I'm just more saying that this... the way we have been regulating the height
2 above the base flood elevation is changing. And so, the state law's requiring that the floor be 1-
3 foot above the base flood elevation for the homes and so we have to basically just lift
4 everything u. So, right now with the main home, we allow them to have allowances and so their
5 floor just has to be higher. And so, we're still working through how that would be updated and
6 how that would all work, but if the direction from the Commission is for us to continue working
7 on how do we make sure the home and the accessory dwelling unit have the same restriction,
8 or rather the same allowances. Just to note the allowances for the main home may change
9 based on how we have to accommodate the state law. That's just (interrupted)

10
11 Commissioner Alcheck: You know, so I totally get it. I think my motion... I would still make the
12 motion that I made and I would also just say... suggest to Staff that may be in these Flood Zones
13 if you're reviewing it. You consider allowing interior fences, perimeter fencing, to also increase
14 by the same amount. I think you have a 6-foot height limit for interior fences but if you've
15 allowed ceilings to go up a foot and a half. Maybe you could allow fences to up to 7 ½-feet and
16 that might create... that might offset the height of an ADU that's close to a perimeter fence.
17 Something to think about.

18
19 Ms. Tanner: That's a great idea, thank you.

20
21
22 Chair Hechtman: Commissioner Alcheck has made a motion. Is there a Commissioner who
23 would like to second? Seeing no second so the motion fails.

24
25 MOTION #11 FAILED DUE TO THE LACK OF SECOND

26
27 Chair Hechtman: Is there a Commissioner who would like to speak? Commissioner Summa.

28
29 Commissioner Summa: Thank you very much. Given what we just heard from Assistant Director
30 Tanner, maybe it would be better to address this issue when we know what's happening...
31 what's changing because of the state law. [unintelligible – audio disturbance] this decision
32 when we understand how that's [unintelligible] to the primary residence.

33
34 Ms. Tanner: Certainly. Yeah, if Ms. French is available, she might be able to speak to what
35 exactly the changes may be more eloquently than I have, but it is that we have been doing the
36 6-inches and that's not sufficient by the state. It needs to be a foot above the base flood
37 elevation. So, just to say that if in the motion that Commissioner Alcheck made, it was more
38 just saying that we're... if the motion was to allow the ADU to have the same allowance as the
39 home. The allowance of the home may change because we need to comply with the state's law.
40 I see Mr. Yang is here.

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1

2 Mr. Yang: I think potentially the change that Assistant Director Tanner mentioned seems to be
3 complicating the issue. It really is just saying that what we considered to be the height that was
4 required is going to be 1-foot higher. It doesn't really have much impact on the policy decision
5 that the Commission would be considering right now.

6

7 Commissioner Summa: And another question is I think Commissioner Alcheck mentioned 17 ½-
8 feet. Is that the tallest accessory... an ADU could be in the Flood Zone is 17 ½-feet?

9

10 Mr. Yang: So, currently the ADUs are limited to 16-feet regardless of their status in the Flood
11 Zone and what's being put before the Commission right now is would... do you want that
12 height... maximum height to be increased when you're in the Flood Zone?

13

14 Commissioner Summa: I'm trying to determine what that maximum increased height would be.

15

16 Mr. Yang: Sure, I guess if you had a base flood elevation that was what, 4-feet above grade and
17 now we'd be looking at the first floor having to be 1-foot above that so 5-feet above. Adding 50
18 percent of that to the 16-feet would take it up to 18 ½.

19

20 Commissioner Summa: 18 ½, thanks.

21

22 Chair Hechtman: Commissioner Lauing.

23

24 Commissioner Lauing: I'm happy to defer to you Chair Hechtman if you have a number of things
25 to say first.

26

27 Chair Hechtman: I do have some comments so alright, but before I do that, Commissioner
28 Templeton, do you want to wait or?

29

30 Commissioner Templeton: I do not want to weigh in on this at this time.

31

32 Chair Hechtman: Ok. Alright so on this one I am supportive of the Staff recommendation which
33 would basically be to stop pursuing this issue. I guess thinking about what Commissioner
34 Alcheck said, I think it would be true that all the houses in the neighborhood might be a little
35 taller in a Flood Zone if we had any new neighborhoods in Palo Alto that had been built recently
36 but we don't. We don't. I live in a Flood Zone neighborhood and the homes on both sides of me
37 are single-story, they're not built up, and I think that if I put in my back yard a 17-foot or 18 ½-
38 foot tall structure, that's really going to impact their experience in their back yard more... I
39 mean it's enough that 16-feet is going to impact them but then to put it 2-feet higher just...
40 these are 6,000-square foot lots. So, I think that we don't have... I think in our earlier item on

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1 privacy, we're looking at different rules for the second-floor of an ADU than we are for the
2 second floor of a residence. So, I think it's ok here, as Staff is suggesting, to not have the same
3 rules that we apply for our main residences in terms of Flood Zone height increases. To not roll
4 those over to the ADUs so those were my thoughts in support of Staff's recommendation.
5 Commissioner Lauing.

6
7 Commissioner Lauing: I see both sides of this and I think that it's not a super material change
8 either way. I'm very respectful of the Staff position on this so if they wanted to rethink this and
9 come back and say ok, let's do it. That's fine but I'm sort of persuaded by Chair Hechtman's
10 comments that we're probably ok the way we are and probably a little bit ahead of the game
11 for the reason that he stated.

12
13 Chair Hechtman: Commissioner Alcheck.

14
15 Commissioner Alcheck: Commissioner... Chair Hechtman, I wonder if you would be amenable
16 to asking Staff to come back with some information regarding the possibility that a home in
17 Palo Alto could be in a situation where they would have to elevate 5 or 6-feet or more; and it
18 would put them in a position where there's the top of their ADU had to be no more than 10-
19 feet from the bottom of the structure which could create development issues? And so, I
20 wonder if you would be willing to say look, we're not going to increase heights but if you're in
21 such an impacted site and you want to create an ADU. The minimum height is 11-feet for the
22 ADU so at least for the situation and scenario we can't imagine right now, we won't have a
23 situation where a guy goes well I can't build anything that's north of 9-feet. And that's
24 impractical because I have to have a ceiling joist and I have to have floor joist and now I'm in a
25 unit that's 7 ½-feet tall or something like that. So, I guess it doesn't need to be a one for one, 1
26 ½- feet or half of the feet on the residence and the ADU but maybe something that says well if
27 you're really impacted because you're in this Flood Zone and it's significant. We'll allow you to
28 come up a little bit; you know something reasonable.

29
30 Chair Hechtman: [unintelligible – low audio] let's see, Commissioner Lauing why I don't let you
31 go first, and then I have a thought. You're muted. There you go.

32
33 Commissioner Lauing: No, I'm sorry, I didn't put my hand down.

34
35 Chair Hechtman: Ok, alright, so I'm wondering if Staff already has an answer to that, that they
36 can provide us here. I guess I had been reading... understanding Staff's proposal, maybe
37 misunderstanding it, as really relating to the maximum height for ADUs being 16-feet and that if
38 want to build a one-story ADU in a Flood Zone. I still get a full one-story on top of half of the
39 BFE plus 1-foot.

40

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1 Ms. Tanner: Yes, that's correct.

2

3 Chair Hechtman: That's the way our ordinance currently works so we don't need to change our
4 ordinance to make that so?

5

6 Ms. Tanner: Yeah, we wouldn't need to make a change to enact that. Is that the question?

7

8 Commissioner Alcheck: I'm sorry, I need... can you ask some... can I ask a clarifying question?

9

10 Chair Hechtman: Please.

11

12 Commissioner Alcheck: Just to be clear, if the... if you had to build 6-feet above grade or let me
13 just be even more exaggerated. If you had to build 7-feet or if you had to start your structure 7-
14 feet above grade, which is so insane, but if you had to build your structure 7-feet above grade.
15 You could build it 10-feet tall an ADU or would you have to make sure that the top from grade
16 was below 16 because that's how I'm understanding this.

17

18 Ms. Tanner: That is correct. I think though that scenario, I don't know that that would exist at a
19 current Flood Zone and the greatest Flood Zone.

20

21 Commissioner Alcheck: I'm not saying it does. I'm saying... my proposition to the Chair was
22 maybe we could just make... maybe you guys have a map that says well here's the biggest...
23 here are all the... I don't even know what that term is. BFE. Here are all the... here's
24 (interrupted)

25

26 Ms. Tanner: Base flood elevation.

27

28 Commissioner Alcheck: The map of everything and the biggest one is 6 ½-feet. And in that
29 scenario, you wouldn't be able to build more than a 10 ½-foot tall ADU which means an interior
30 space of maybe 8 and that... I don't know. So, that's my question is maybe you could just let us
31 know how many properties are impacted like that and we can then (interrupted)

32

33 Ms. Tanner: If the Commission wanted we could when we return with the other items or with
34 this package. Just verify what's the highest base flood elevation in Palo Alto and would that BFE
35 allow for at least a... what's the height, interior height, or exterior I guess of that ADU? Would it
36 get to 9, 10, 11-feet? Would it be two cramped [unintelligible] is what I'm understanding the
37 concern, right? That someone would have a very low ceiling that would be uncomfortable and
38 not really ideal. We can do that if that's of interest.

39

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1 Chair Hechtman: So, I guess I'll address the concept. I'm not seeing any other hands. I'm not
2 averse to getting better informed on that. I do think that if there are places where it is
3 potentially... if you built an ADU, you would be cramped. I think that that is a... that would be a
4 classic opportunity for a grantable Variance because there a physical characteristic of the
5 property was making it necessary to get some relief from strict application of the height
6 limitation. So, I'm ok going through the exercise but even if we learn that there's a place with 7-
7 feet, I think that's a place where we're going to get a future Variance application. So, I guess
8 Mr. Alcheck, do you want to... does that satisfy you or do you want to make a motion?
9

10 Commissioner Alcheck: Yeah, that satisfies me. I'm sure that if the... if there's somebody out
11 there listening to this and they feel like they'll probably write us a letter. So, I like to just throw
12 those ideas out there to make sure that we're not missing some kind of big fish that they come
13 back and go its whole street block or something.
14

15 Chair Hechtman: So, then are you comfortable (interrupted)
16

17 Commissioner Alcheck: I'm very comfortable.
18

19 Chair Hechtman: With a motion that the Staff shouldn't carry this further?
20

21 Commissioner Alcheck: Yeah, I mean I don't know that I'll support it but I'm comfortable with
22 where you're at and I don't need to modify it.
23

24 MOTION #12
25

26 Chair Hechtman: So, does anybody want to make that motion or hopefully nobody will mind if I
27 do given the lateness of the hour. I will move Staff's recommendation on this item that they
28 don't continue to analyze this further. Is there a second? I see your fingers up Mr. Lauing. Are
29 you seconding?
30

31 SECOND
32

33 Commissioner Lauing: Yes.
34

35 Chair Hechtman: Ok, thank you. Do you need to... do you want to speak to your second?
36

37 Commissioner Lauing: That wasn't any sort of sign besides that. No, I think you've outlined it
38 correctly and I think your escape valve to the objections was appropriate. That is clearly is a
39 Variance situation.
40

-
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1 VOTE

2

3 Chair Hechtman: Any other discussion Commissioners on the motion? Mr. Nguyen, can you
4 conduct a roll call vote?

5

6 Mr. Nguyen: Commissioner Alcheck?

7

8 Commissioner Alcheck: Nay.

9

10 Mr. Nguyen: Chair Hechtman?

11

12 Chair Hechtman: Yes.

13

14 Mr. Nguyen: Commissioner Lauing?

15

16 Commissioner Lauing: Yes.

17

18 Mr. Nguyen: Commissioner Summa?

19

20 Commissioner Summa: Yes.

21

22 Mr. Nguyen: Commissioner Templeton?

23

24 Commissioner Templeton: Yes.

25

26 Mr. Nguyen: The motion carries 4-1 with one Commissioner missing.

27

28 MOTION #12 PASSED 4(Hechtman, Lauing, Summa, Templeton) -1(Alcheck) -0- 1(Roohparvar
29 absent)

30

31 Chair Hechtman: Thank you. Thank you and thank you Commissioners and Staff for getting us
32 through this lengthy agenda item almost on time. I don't think that there's anything left of that
33 and so now we can move to approval of minutes.

34 **Commission Action**: Motion by Hechtman [**Templeton**], seconded by Alcheck [**Hechtman**]. Pass
35 5-0.

36 **Commission Action**: Motion by Alcheck, seconded by Templeton. Pass 4-1 (Summa against)

37 **Commission Action**: Motion by Alcheck, seconded by Hechtman. Pass 3-2 (Lauing, Summa
38 against)

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

40 **Commission Action**: Motion by Lauing, seconded by Alcheck. Pass 4-1 (Summa against)

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- 1 **Commission Action:** Motion by Alcheck, seconded by Summa. Pass 5-0
- 2 **Commission Action:** Motion by Alcheck, seconded by Templeton. Fail 2-3
- 3 **Commission Action:** Motion by Alcheck, seconded by Lauing. Pass 5-0
- 4 **Commission Action:** Motion by Alcheck, seconded by Summa. Pass 5-0
- 5 **Commission Action:** Motion by Hechtman, seconded by Lauing. Pass 4-1 (Alcheck against)

6 **Approval of Minutes**

7 Public Comment is Permitted. Five (5) minutes per speaker.^{1,3}

8 5. January 27, 2021 Draft PTC Meeting Minutes

9 Chair Hechtman: So, we have revised January 27 draft PTC meeting minutes. Can I have a
10 motion?

11
12 MOTION

13
14 Commissioner Alcheck: So, moved.

15
16 Chair Hechtman: Thank you. I think that was... oh, I think you were hidden there. That was I
17 think Commissioner Alcheck? Ok. Second?

18
19 SECOND

20
21 Commissioner Summa: Second.

22
23 VOTE

24
25 Chair Hechtman: Mr. Nguyen?

26
27 Mr. Vinh Nguyen, Admin Associate III: Commissioner Alcheck?

28
29 Commissioner Alcheck: Aye.

30
31 Mr. Nguyen: Chair Hechtman?

32
33 Chair Hechtman: Aye.

34
35 Mr. Nguyen: Commissioner Lauing?

36
37 Commissioner Lauing: Yes.

38
39 Mr. Nguyen: Thank you. Commissioner Summa?

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Commissioner Summa: Yes.

Mr. Nguyen: Commissioner Templeton?

Commissioner Templeton: Yes.

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

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

Chair Hechtman: Thank you. Committee items?

Commission Action: Motion by Alcheck, seconded by Summa. Pass 5-0

Committee Items

Chair Hechtman: Are there any Committee items?

Commissioner Templeton: XCAP wrapped up today and we'll be presenting to Council next month. Philip mentioned that earlier. If you have any questions please reach out to me. Thank you.

Chair Hechtman: [unintelligible – no audio] Commissioner Templeton. Anyone else?

Commissioner Questions, Comments or Announcements

Chair Hechtman: Commissioner questions, comments, announcements or future agenda items? Ms. Tanner, you have anything?

Ms. Rachael Tanner, Assistant Director: For our next agenda we will have a pretty good night. We have the NVCAP coming back to us as well as the Objective Standards which you may remember we did I think a study session maybe this time last year on Objective Standards? So, that is coming back after much, much work from the ARB so looking forward to that.

Chair Hechtman: Alright, I am going to once again postpone our brief discussion on how it's going on Zoom. Maybe we'll get it done next time although as we just heard we're going to have a packed agenda then too so we will see. So, I do want to thank Staff for their work this evening. I also want to thank the task force for its efforts and contributions on this ADU item. I was greatly appreciative and I particularly appreciated Mr. Popp, you staying with us tonight and providing color to some of these issues as we move through them. And I want to thank my fellow Commissioners and members of the public and we are adjourned. Thank you.

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1 **Adjournment**

2 11:05 pm

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